Mill Rec 57-153

1 Black 541

Mr Justice Swayne

SUPREME COURT OF THE UNITED STATES.

No. ~~304~~. 491. 125.

THE UNITED STATES, APPELLANTS,

vs.

SANTIAGO ARGUELLO.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

GOVERNMENT PRINTING OFFICE.

SUPREME COURT OF THE UNITED STATES.

No. 304.

THE UNITED STATES, APPELLANTS,

vs.

SANTIAGO ARGUELLO.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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SUPREME COURT OF THE UNITED STATES.

No. 124.

December term, 1863.—Appeal from the southern district of California.

THE UNITED STATES, appellants,
vs.
JOSE ANTONIO AGUIRRE AND WIFE, appellees.

ARGUMENT FOR THE APPELLEES.

The only point in controversy in this case is that of quantity; the United States insisting that the decree of confirmation for eleven leagues shall be reversed, and a decree for five leagues substituted.

The cases cited by the counsel for the United States do not apply. The decision in Fossat's case (20 Howard, 413) was that the call *in the grant* for "one league a little more or less," must be taken as "one league" when located and surveyed by the United States. In the case at bar no quantity is named in the grant, and the only limitation is that prescribed by the colonization law—namely, eleven leagues.

In Yontz' case (23 Howard, 495) the petitioner expressly confined his application for "two leagues a little more or less." The grant named no quantity, but reserved the surplus. The surplus of what? Clearly of the two leagues applied for by Pacheco. But there is no reservation of the surplus in the grant to the wife of Aguirre.

The petition of Pacheco, in the Yontz case, was clearly for *two leagues of land*, a little more or less, within certain boundaries shown by his diseno. The petition of Aguirre was as clearly for the *surplus* of the land of Old and New San Jacinto, within certain designated boundaries, and which surplus he *estimated* at five leagues, a little more or less. The distinction is plain. Had Aguirre petitioned for five leagues of land, a little more or less, within the designated boundaries, and had the granting power reserved the surplus, the cases would have been alike in principle. But the third condition of the grant is

not only silent as to any reservation, but especially directs the Magistrate who shall give possession to report to the Government the *number of leagues* measured; and the grant in this form was approved by the Departmental Assembly.

The officer who gave possession had the *grant only* to guide him. He had no access to the *petition*, which was retained in the archives. It is clear, therefore, that the Magistrate, with this grant in his hand containing no limitation of quantity, and no reservation of surplus, would have measured and delivered to the grantee the whole of the ungranted land found within the designated boundaries, provided there was no excess over eleven leagues. The Surveyor General, under the decree as it stands, is charged with the same duty.

It is respectfully submitted that the decree of the District Court should be affirmed.

JOHN B. WILLIAMS,
Attorney for Appellees.

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1 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this 13th day of April, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Santiago Arguello, for the place named mission of San Diego, was presented and ordered to be filed and docketed with No. 175, and is as follows, to wit:

(Vide page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Sept.* 3, 1852.

In case No. 175, Santiago Arguello, for the mission of San Diego, the deposition of Ygnacio del Valle, a witness on behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 4 of this transcript.)

SAN FRANCISCO, *Sept.* 23, 1853.

Case No. 175 called. On motion of the counsel for the claimant, ordered to the foot of the docket.

2 SAN FRANCISCO, *Sept.* 19, 1854.

Case No. 175 was ordered to be placed at the foot of the 2d class cases on the trial docket.

SAN FRANCISCO, *Oct.* 19, 1854.

In this case, the depositions of John Foster, J. J. Warner, and Thomas D. Johns, witnesses in behalf of the claimant, taken before Commissioner Peter Lott, were filed.

(Vide pages 5, 8 and 10 of this transcript.)

SAN FRANCISCO, *Oct.* 24, 1854.

In the same case, the deposition of Henry W. Halleck, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(Vide page 13 of this transcript.)

Case No. 175 was submitted on briefs, and taken under advisement by the board.

SAN FRANCISCO, *June* 26, 1855.

In the same case, Commissioner R. Aug. Thompson delivered the opinion of the board, confirming the claim.

(Vide page 23 of this transcript.)

And the following order was made, to wit:

(Vide page 25 of this transcript.)

3 *Petition.*

To the honorable commissioners to settle private land claims in California:

The petitioner, Santiago Arguello, respectfully shows, that on the 8th day of June, A. D. 1846, Pio Pico, governor of California, by virtue of authority in him vested, granted to the petitioner, by patent, a deed of conveyance the mission of San Diego, with all its lands and tenements, as more fully described in the deed or patent, a copy of which is submitted herewith, marked A, with a translation, marked B.

That he has performed all the conditions of said grant necessary to make it perfect and absolute; and if any conditions have been left unperformed, it was because the petitioner was prevented from performing them in consequence of the war between the United States and the Mexican republic, and the military occupation of the country.

That, on receiving said grant, he became seized and possessed of the said tract of land, and has continued in such possession to the present time, except when prevented from occupying his said property by the military forces of the United States.

That the said tract of land has not been surveyod by the surveyor general of the United States, and that its limits are well known, being bounded by the ranchos and lands previously granted to individuals and corporations.

That he knows of no conflicting claim.

That he relies for confirmation of title upon the original grant, a copy of which is submitted herewith upon the minutes and
4 records in the public archives now under the charge of the surveyor general, and upon such other and further proof as he may be advised are necessary.

Wherefore he prays the commissioners to confirm to him the said tract of land as described in the said grant.

By his atty's:

HALLECK, PEACHY, & BILLINGS.

Filed in office April 13, 1852.

(Signed) GEO. FISHER, *Sec'y.*

5 *Deposition of Ygnacio del Valle.*

OFFICE OF THE BOARD OF LAND COMMISSIONERS FOR CALIFORNIA,
Los Angeles, Sept. 3, 1852.

On this day before Highland Hall, one of the commissioners for ascertaining and settling private land claims in California, came Ygnacio del Valle, a witness produced in behalf of the claimant, Santiago Arguello, No. 175, on the commissioners' docket, and, after being duly sworn, testified as follows, his evidence being given in the Spanish language and interpreted by Geo. Fisher, secretary:

The U. S. law agent was duly notified and attended.

My name is Ygnacio del Valle, my age forty-four, and my residence the city of Los Angeles.

I am acquainted with the handwriting of Pio Pico and Jose Matias Moreno.

Their signatures appearing upon a paper now before me, purporting to be a grant of the lands of the mission of San Diego, dated June 8, 1846, to the claimant, are their genuine signatures; said paper is hereto attached, and marked No. 1.

In answer to questions by the law agent, the witness says that at the time of the grant he heard of its being made, but he did not know the precise date or the terms of it.

YGNACIO DEL VALLE.

6 Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Sept. 3, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Deposition of J. J. Warner.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Oct.* 18, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, J. J. Warner, a witness on behalf of the claimant, Santiago Arguello, in case No. 175 on the docket of said board, and said witness being sworn, deposed as follows:

The U. S. associate law agent is present.

Questions by Capt. Halleck, for claimant.

1st question. What is your name, age, and residence?

Answer. My name is J. J. Warner; age, 46 years; my residence, Santiago, in California.

2d question. Are you acquainted with the mission lands of
7 the mission of San Diego? if yea, state their locality, form, and boundaries.

Answer. I know said mission lands; have been acquainted with them for many years. On the northeast of the mission, about one league from the church buildings, I have seen a monument which I have always understood to mark the dividing line between said mission lands and the rancho of Santa Monica or Cajon.

That monument is a pile of stones on the southwest of the mission buildings; distant nearly a half league, there is a small pond called La Poza, which I have always understood to be the boundary line between the mission lands and the pueblo lands of San Diego.

On the north and northwest of the mission, distant about one league from the mission buildings, there is a cañada which runs nearly parallel to a line drawn from said monument to said pond; this is called

the Cañada de Clemente, and the Huerto de Clemente is on this cañada, and I have always understood this cañada to be the boundary line of the mission lands on that side. On the southeast, it is bounded by a cañada called St. George.

The lands would form nearly a parallelogram, a little longer than wide, and contain, perhaps, a little less than three leagues. I
8 think the mission lands adjoin the rancho of Jamacha on the southeast, though La Soledad rancho will touch the mission lands on the northwest corner.

3d question. How do you know these boundaries?

Answer. I know them by common report, by conversations with the Colindantes, and the inhabitants and authorities of San Diego, and with Padre Vicente Olivas, priest of the mission, respecting the boundaries between the pueblo and mission lands in 1844.

I wish to state, in speaking of the boundaries with reference to the points of compass, I only intend to approximate the points, and do not speak with positive certainty in that particular.

J. J. WARNER.

Subscribed and sworn to before me on this 18th day of October, A. D. 1854.

PETER LOTT, *Com'r.*

Filed in office October 14, 1854.

(Signed) GEO. FISHER, *Sec'y.*

Depo. of John Foster.

9 UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Oct.* 18, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, John Foster, a witness on behalf of the claimant, Santiago Arguello, in case No. 175 on the docket of said board, and said witness being sworn, deposed as follows:

The U. S. associate law agent is present.

Questions by Capt. Halleck, for claimant.

1st question. What is your name, age, and residence?

Answer. My name is John Foster; my age, 39 years; my residence, Los Angeles, California.

2d question. Are you acquainted with the mission lands of the mission of San Diego? If yea, state their locality, form, and boundaries.

Answer. I am acquainted with those lands; they are about 3½ leagues from the anchorage in the bay of San Diego, towards the north. They are bounded as follows: Commencing at the
10 southeast corner and running in a direct line about 1¼ league

northwardly, which forms the dividing line between the mission lands and the rancho of Jamacha, there the boundary strikes the line of the Cajon rancho, and runs westwardly about 2 leagues to the cañada of Clemente, or Huerte of Clemente, on which line is a monument of stones known as the dividing line between the mission lands and Cajon rancho; then it runs southwardly about ¼ league or less in a direct line to where it strikes the public lands of San Diego; thence east to the place of beginning, about 2 leagues, dividing the pueblo from the mission lands. On the last mentioned line there is a pond in the valley of San Diego, known as a natural land mark, called La Paza.

3d question. How did you learn these boundaries?

Answer. I know them from the common report and general recognition by colindantes and the public authorities for the last 20 years, during all of which time I have lived in the country. I do not mean that the lines were known by me for 20 years. I have only known them well for about 10 years back, but I lived 20 years in the southern part of this State.

4th question. Who now occupies those mission lands.

11 Answer. They are occupied by the U. S. troops as a military post.

Cross-examined by the U. S. law agent.

1st question. What acts of the authorities do you refer to in your answer to 3d question-in-chief.

Answer. I know of the concession of the adjoining ranchos, two of them, at least, the Cajon and the Jamacha; and having a ranch in the vicinity myself, I have informed myself more particularly of these boundaries.

JOHN FOSTER.

Subscribed and sworn to before me this 18th day of October, A. D. 1854.

PETER LOTT, *Com'r.*

Filed in office Octo. 19, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Depo. of T. D. Johns.

12 UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Octo.* 18, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Thomas D. Johns, a witness on behalf of the claimant, Santiago Arguello, in case No. 175 on the docket of said board, and said witness being sworn, deposed as follows:

The U. S. law agent is present.

Questions by Capt. Halleck, for claimant.

1st question. What is your name, age, and residence?

Answer. My name is Thomas D. Johns; my age, 29 years; my residence, San Francisco, California.

2d question. Are you acquainted with the mission lands of the mission of San Diego? If yea, state their locality, form, and boundaries.

Answer. I am acquainted with said lands; they are located about five miles in a northeasterly direction from the town of San Diego.

The northeasterly, or what is there called the northern boun-
13 dary, is the rancho of La Soledad; on the east, Cajon rancho, which is claimed by the Estudillo family; on the south by the ranch called the Jamacha, or rather, the southwesterly, and all the west by the pueblo lands of San Diego.

The form of the land in question is a parallelogram, a little longer than wide, embracing a space of about 4 miles by about 5 or 6 miles.

3d question. State what you know of the occupation of these lands.

Answer. They have been occupied since early in January, 1850, by the United States as a military post till the present time.

4th question. What military office have you had during the last 4 years, and where were you stationed?

Answer. I was a lieutenant of the 2d infantry in the United States army, and acting as quartermaster; stationed at San Diego during a portion of this period; I had charge of the mission buildings and said mission lands myself.

5th question. Do you know whether the claimant in this case, Santiago Arguello, protested against and objected to the occupation of these lands by the military of which you have spoken?

14 Answer. He has objected to it and protested against it to Col. McGruder, Major Heintzleman, and myself, who respectively had command there at different times.

Cross-examined by U. S. law agent.

1st question by U. S. law agent. Who assigned those boundaries, and what marked them?

Answer. I do not know how the boundaries were assigned. There is a lagoon down the mission valley, which I have understood to be near the boundary on the line between the mission lands and the pueblo lands; I do not know positively of any other national marks.

2d question. How long have you been acquainted with said lands? and state all your means of knowledge respecting their form and boundaries.

Answer. I first became acquainted with said lands January 13, 1850; and I have acquired my knowledge of the form and boundaries from having rode a great deal over the lands and from common notoriety and conversations with the neighbors and old Californians down there.

THOMAS D. JOHNS.

15 Subscribed and sworn to before me on this 18th day of October, A. D. 1854.

PETER LOTT, *Com'r.*

Filed in office Oct. 19, 1854.

(Signed) GEO. FISHER, *Sec'y.*

Depo. of H. W. Halleck.

UNITED STATES LAND COMMISSION,
San Francisco, Oct. 24, 1854.

On this day, before Commissioner Alpheus Felch, came Henry W. Halleck, a witness on behalf of claimant Santiago Arguello, case No. 175, who, after being duly sworn, deposed as follows:

1st question. What is your name, age, and place of residence?

Answer. My name is Henry W. Halleck; my age is 38 years; I now reside in San Francisco, and have resided in California since the month of January, 1847.

2d question. Do you know the lands of the mission of San Diego? and, if yea, say what you know of them and of their occupation.

16 Answer. I know these lands very well, but I do not know their boundaries; the place was occupied by the United States troops as a military post in the war between the United States and Mexico; and when I was last there, in 1851, it was still so occupied as a military post.

3d question. What office, if any, did you hold in California in the years 1847, 1848, and 1849; and did you, as an officer of the government, ever receive any protests from the claimant against the military occupation of the lands here claimed; and, if yea, say what you know about the matter?

Answer. In the years mentioned I was an officer of the U. S. army in military service in California, and during most of the time was acting as secretary of state; I remember that in the early part of 1847 the claimant protested against the military occupation of the mission of San Diego, and that such protests were reported at different times till I left the office of the commanding general in February, 1850.

While I was secretary of state the claimant wrote me a number of letters protesting against the military occupation of the said mission lands, and claiming to be the owner under the grant from the governor of California.

Cross-examined in open board by law agent.

17 1st question. How many times did the claimant protest; how did he protest each time; what did you reply, and what act did you do which would prevent him from occupying that part of the land not in your immediate possession?

Answer. I do not remember how many times; the manner of his protesting was by letter. We did no act, to my knowledge, more than to

continue the occupation of the place as a military post. I do not known of any thing which prevented his possession of the part not so occupied.

H. W. HALLECK.

Subscribed and sworn to before me this 24th day of October, 1854.
ALPHEUS FELCH, *Commissioner.*

Filed in office Oct. 24, 1854.
(Signed) GEO. FISHER, *Sec'y.*

19 *Exhibit No.* 1, *annexed to the deposition of Ygnacio del Valle.*

Pio Pico, Gobernador Constitucional del Departamento de Californias:

[SEAL.]

Autorizado provicionalmente por la Exma. Asamblea Departmental para la enagenacion de las Misiones á fin de pagar sus deudas y evitar la total ruina de ellos, atendiendo à que el Señor Dn. Santiago Arguello ha hecho al Gobierno servicios de consideracion en todas tiempos y aso mismo facilitado auxilias siempre que se le han solicitado para conservacion del propio Gobierno y seguridad del Departamento sin habersele in demnicadors; habiendo este Seoñr pretendido para su beneficio personal y el de su numerosa, el comprar la mision de San Diego contodos sus terrenos, fincas, rusticas y urbanos, que tuvieren pagando integra y religiosamente las deudas pasivas de dicha Mision que aparicieren justificadas segun la relacion que de ellos formó la comision de Misiones, obligandose á mas á proporcionar la subsistencia del Padre Ministro que alli existe y la conservacion del divino culto visto y considerado todo lo que ver y considerar convino en uso de las facultades con qe. me hallo investido he venido en hacer venta real y enagenacion perpetua para siempre jamas á Dn. Santiago Arguello segun y conforme ha convenido en todas las pertenencias que hay cuenta y reconoce anexars, consistan en terrenos, fincas, bienes raices ó semovientes en cuyo testimonio y para su validacion y mejor cumplimiento se ponen las condiciones siguientes.

20 1a. Pagará á los acreedores de la Mision de San Diego las cantidades que aparecieren justificadas pudiendo convenerse con ellos en el tiempo y modo de verificando.

2a. Desde ahora es de su cuenta particular toda la necesario para la subsistencia del Padre Ministro que alli existe como egualmente para la conservacion del culto divino.

3a. No se padrá alejar lesion enorme por esta venta de parte de nueguero y el exceso en poco o mucho suma queda à favor del comprador por ser el valor justo que actualmente tiene dicho mision y no haber quien diere mas por ella.

4a. Se esceptuan de la venta anterior el templo y todas sus pertenencias, y habitaciones del Padre Ministro.

En consecuencion declaro por presentes letras ser dueño legitimo

de la referido Mision de San Diego al Señor arriba mencionado en los terminos y bajo las condiciones expresados por cuya virtud podra tomar posession de ella desde ahora ó cuando le conviniese.

Y para la debida constancia en todos tiempos doy este documento como en formal escritura que sera reconicidos y acatado por todas las autoridades civiles y Militares de la Nacion Mejicana en este y en los demas Departamentos y aun por el Gobierno General de ella autorizado debidamente con mi firma y la del Secretario de mi despacho en este papel comun por falta de sellado en la cuidad
21 de Los Angeles á ocho de Junio de mil ocho cientos cuarenta y seis.

PIO PICO.

JOSE MATIAS MORENO, *Srio. Into.*

Filed in office Sept. 3, 1852.

GEO. FISHER, *Sec'y.*

"*B.*"—*Translation of title.*

Pio Pico, constitutional governor of the department of the Californias:

GOVERNMENT OF THE DEPARTMENT OF THE CALIFORNIAS.

Previously authorised by the most excellent departmental assembly to alienate the missions, in order to pay their debts, and to avoid their total ruin, and knowing that Señor Don Santiago Arguello has rendered the government important services at all times, and has also given, and when asked for the preservation of the legitimate government, and the security of the department, without having received any indemnification; and whereas this señor has for his own personal benefit, and that of his numerous family, asked to purchase the mission of San Diego, with all its lands and tenements, paying fully and religiously the passive debts of said mission, which appear
22 justified according to the report of the committee on missions; binding himself besides to contribute to the support of the priest located there, and of divine worship.

Now therefore, and considering all that is to be seen and considered, and using the faculties conferred upon me, I have made real sale and perpetual alienation of it forever to Don Santiago Arguello, according to, and in conformance with, what has been agreed upon, with all the appurtenances found and known at the time as belonging to it, consisting in rents, estates, real and self-moving property.

In testimony of which, and for its validity and better fulfilment, the following conditions are added:

1st. He shall pay the creditors of the mission of San Diego the sums which may appear justly due them; he being authorized to enter into an agreement with them as to the time and mode of settling them.

2d. From now henceforth he shall bear, upon his own private account, the necessary expenses for the subsistence of the priest located there, and also for the preservation of divine worship.

3d. No one shall be able to allege any enormous lesion by this sale, and the excess, whether great or small, is granted to the purchaser, for he takes it at the first value which the said mission now possesses, and there is no one who will give more for it.

4th. The church and its appurtenances, and the dwelling of the priest, are excepted from the foregoing sale.

In consequence, I declare by these presents the aforesaid
23 señor to be the legitimate owner of the said mission of San Diego, in the terms and under the conditions above expressed, by virtue of which he may take possession of it from this time, or whenever he may see fit.

And as a proper testimony in all future time, I give this document as a formal writing, which will be acknowledged and respected by all civil and military authorities of the Mexican nation in this and other departments, and even by the general government of Mexico, properly authorized under my hand and that of my secretary of state, on this common paper, there being none stamped.

In the city of Los Angeles, the 8th day of June, one thousand eight hundred and forty-six.

(Signed) PIO PICO.

(Signed) JOSE MATIAS MORENO, *Secretary ad interim.*

Filed in office April 13, 1852.

(Signed) GEO. FISHER, *Sec'y.*

25 *Opinion by Commissioner R. Aug. Thompson.*

SANTIAGO ARGUELLO, *vs.* THE UNITED STATES. } Mission lands of San Diego.

This claim is founded on a grant made by Governor Pio Pico to the claimant on the 8th of June, 1846, in consideration of his public services.

The original title deed is filed in the case and its genuineness fully established by the testimony.

The commission having, in several cases heretofore decided, passed upon the validity of grants of this description, and the evidence in this case, judging it clearly written, the principles settled in these decisions, a decree of confirmation in accordance therewith will be entered.

Filed in office June 26th, 1855.

GEO. FISHER, *Sec'y.*

26 *Decree.*

SANTIAGO ARGUELLO *vs.* THE UNITED STATES. } No. 175.

In this case, on hearing the proofs and allegations, it is adjudged

by the board that the claim of the petitioner is valid, and it is therefore decreed that the same be confirmed.

The land of which confirmation is made is situated in the county of San Diego, and is known as the lands of the mission of San Diego, as described in the original grant and the depositions of Juan Foster and J. J. Warner, to all of which reference is made for a more particular description.

R. AUG. THOMPSON.
S. B. FARWELL.

Filed in office June 26, 1855.

GEO. FISHER.

27 *Order.*

And it appearing, to the satisfaction of this board, that the land hereby adjudicated is situated in the southern district of California, it is hereby

Ordered, that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary; one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

29 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing twenty-five pages, numbered from 1 to 25, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board of the documentary evidence and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 175, on the docket of the said board, wherein Santiago Arguello is the claimant against the United States for the place known by the name of mission of San Diego.

In testimony whereof I have hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, [SEAL.] California, this twenty-first day of November, A. D. 1855, and of the independence of the United States of America the eightieth.

GEO. FISHER, *Sec'y.*

Filed December 6, 1855.

C. E. CARR, *Cl'k.*
By SAM'L R. DUMMER, *Dep'y.*

31 OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, Dec. 31, 1855.

175.—"MISSION OF SAN DIEGO."
SANTIAGO ARGUELLO, claimant.

You will please take notice, that in the above case decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office, on the 18th day of December, 1855, the appeal in the district court of the United States for the southern district of California, will be prosecuted by the United States.

C. CUSHING, *Attorney General.*

Filed Feb'y 12, 1856.

C. E. CARR, *Clk.*

33 In the district court of the United States for the southern district of California.

City and county of Los Angeles, State of California:

SANTIAGO ARGUELLO, appellee, *ads.* THE UNITED STATES, appellants. } Docket, No. 347. Transcript, No. 175.

To the Hon. Isaac S. K. Ogier, judge:

The petition of Pacificus Ord, a resident of said city, county, and State, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in the name and behalf of the United States, represents as follows: That heretofore, to wit, on or about the 13th day of April, A. D. 1852, Santiago Arguello presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, claiming the mission of San Diego, with its lands and tenements, in the county of San Diego, State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to. That thereafter, to wit, on or about the 26th day of June, A. D. 1855, the said commissioners confirmed, by final decision, the said claim of said petitioner. That thereafter, to wit, on or about the 6th day of December, A. D. 1855, a duly certified transcript of the proceedings and decision of the said commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 175, reference to which it is prayed may be had and made part of this petition. That on or about the 18th day of December, A. D. 1855, the honorable Caleb Cushing, attorney general of the United States, received a duly certified duplicate of said tran-

script of the proceedings and decision of said commissioners in
34 said cause, and the papers and evidence on which said decision was founded. That thereafter, to wit, on or about the 12th day of February, A. D. 1856, the said Attorney General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the clerk of said district court of the United States, that the appeal in said cause from the said decision of the said commissioners, in the district court of the United States for the southern district of California, would be prosecuted by the United States. Your petitioner further represents that the land claimed, as aforesaid, is situate in the southern district of California, and within the jurisdiction of this honorable court. Your petitioner further represents and insists that the said claim is invalid, and the said decision of said commissioners is erroneous, and ought to be reviewed, reversed, and set aside for many errors and imperfections of law and evidence, apparent in said certified transcript, of the proceedings and decisions of said commissioners in said cause, filed and appealed from as aforesaid. And your petitioner denies all and singular, each and every allegation in the said petition of said claimant, presented as aforesaid to said commissioners. And your petitioner further denies that the said claimant has any valid right or title to said land claimed as aforesaid, or any part thereof. And no sufficient proof having been made of the allegations in said petition to said commissioners, or in support of the said claim, no decision confirming the same
35 should have been made by said commissioners; but the said claim should have been rejected by them. And the said claimant, having no valid right or title derived from the Spanish or Mexican governments to the land claimed, as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to, the United States by virtue of conquest, and the treaty of peace, friendship, limits and settlement, between the United States and the republic of Mexico, made at the city of Guadalupe Hidalgo, February 2, A. D. 1848.

Wherefore, the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress, entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimant, or his attorney, may be served with a copy of this petition, and that this honorable court will review the said decision of said commissioners and reverse the same, and decide on the validity of the same, and decree the alleged title to be invalid, with costs and general relief.

P. ORD,
Attorney of the U. S. for the southern district of California.

Filed this 24th December, A. D. 1856.
C. SIMS, *Cl'k.*
Pr. J. H. COLEMAN, *Dep'ty.*

37 UNITED STATES OF AMERICA,
Southern district of California, ss:

The President of the United States to Santiago Arguello:

Take notice, that a petition—a copy of which is herewith served upon you—has been filed against you in the district court of the United States in and for the southern district of California, on the 24th day of December, in the year of our Lord one thousand eight hundred and fifty-six, at the city and county of Los Angeles in said district, by P. Ord, esq., U. S. dist. attorney, praying said court to review the decision of the United States land commissioners of the 26th of June, A. D. 1855, confirming your claim to the "mission of San Diego," with its land and tenements, and that you are required to appear at said court, in said city, within ten days after the service hereof, if served on you within the county of Los Angeles; and within twenty days if served on you in the county of San Diego or San Bernardino; and within forty days if served on you in any other county of said State, exclusive of the day of service, and answer said petition, or the petitioner will apply to the court for the relief demanded therein.

In witness whereof I have hereunto set my hand and affixed the [SEAL.] seal of said court, at the city of Los Angeles, this 2d day of January, A. D. 1857.

C. SIMS, *Cl'k.*
Pr. J. H. COLEMAN, *Dep'ty.*

38 Received January 10th, 1857.

EDWARD HUNTER, *U. S. marshal.*
Pr. M. L. GOODMAN, *Dep'ty.*

I served this summons, together with a certified copy of the petition, upon F. Billings, att'y for appellee, by him acknowledging service of same, at Los Angeles, in the southern district of California, on the 10th day of January, A. D. 1857.

EDWARD HUNTER, *U. S. Marshal.*
Pr. M. L. GOODMAN, *Dep'ty.*

Sworn to and subscribed before me this 10th January, 1857.

C. SIMS, *Cl'k.*
Pr. J. H. COLEMAN, *Dep'y.*

Filed on return this 10th January, 1857.

C. SIMS, *Clerk.*
Pr. J. H. COLEMAN, *Dep'ty.*

39 *Answer.*

No. 347.—In the United States district court for the southern district of California:

THE UNITED STATES, appellants, *vs.* SANTIAGO ARGUELLO, appellees. } Transcript, No. 175. Answer of appellee.

Santiago Arguello, appellee, appears by his attorneys, and for answer to the petition of the United States, filed herein, says:

That his title to the land called "La mision de San Diego," as set forth and described in his petition to the board of commissioners, and in the documentary and other evidence filed in this case, is a good and valid title.

The land claimed is situated in the southern district of California.

And he prays this honorable court to affirm the decision of the board of commissioners, and to decree his title to be valid.

HALLECK, PEACHY & BILLINGS,
Attorneys for appellee.

Filed this 21st January, 1857.

C. SIMS, *Cl'k.*
Pr. J. H. COLEMAN, *Dep'y.*

Submission.

41 Whereupon the following proceedings were had in open court, to wit:

United States district court south'n dist. of Cal'a.—Regular June term, 1857.

LOS ANGELES, *June* 3, 1857.

SANTIAGO ARGUELLO, appellee, *ads.* THE UNITED STATES, appellant. }

Now on this day this cause coming to be heard, the parties appearing by their respective attorneys, the appellants by P. Ord, esq., U. S. dist. att'y, and the appellees by Halleck, Peachy & Billings, esqrs.

Whereupon the same is submitted to and taken under consideration by the court, with the condition that briefs be filed by the parties by the next term of this court.

Decision.

In U. S. dist. court south. dist. Cal'a.—Regular June term, 1858.

LOS ANGELES, *June* 18, 1858.

SANTIAGO ARGUELLO, appellee, *ads.* THE UNITED STATES, appellants. } No. 347.

On this day the opinion of the court on this case was delivered, confirming the claim of the appellee herein, and a decree was ordered

to be entered up in conformity therewith, which is accordingly done.

Decree.

43 In the district court of the United States within and for the southern district of California.

Hon. Isaac S. K. Ogier, judge.

THE UNITED STATES, appellants, *vs.* SANTIAGO ARGUELLO, appellee. } No. 347.—December term, 1857.

Transcript from the board of land commissioners, No. 175.

This cause came on to be heard on appeal from the decision of the board of land commissioners to settle private land claims in California, upon the transcript of the proceedings and decision of said board, and the documentary and other evidence upon which said decision was founded; and counsel for the respective parties having been heard,

It is ordered, adjudged, and decreed, that the decision of said board of land commissioners, confirming unto the above named appellee, Santiago Arguello, the land set forth and described in his petition to the said board of land commissioners, and in the documentary and other evidence taken in this cause, be and the same is hereby affirmed, and that the title of the said Santiago Arguello, to the said land, is a good and valid one.

The lands of which confirmation is hereby made, are those known as the lands of the mission of San Diego, with the appurtenances thereto belonging, on the 8th day of June, 1846, excepting therefrom the church and priest's dwelling, as more particularly described
44 in the grant and evidence of record in this cause; to all of which reference is hereby made.

Done and signed, in open court, this 18th day of June, *in open court.*

ISAAC S. K. OGIER,
U. S. Dist. Judge.

Filed 18th June, 1858.

C. SIMS, *Clk.*
Per J. H. COLEMAN, *Deputy.*

Motion for new trial.

45 District court of the United States, southern district of California.

THE UNITED STATES, appel'ts, *vs.* SANTIAGO ARGUELLO, appellee. } No. 347, D. C. Mission of San Diego. No. 175, L. C.

Now comes J. R. Gitchell, U. S. dis't att'y for southern district of California, and moves the court to set aside the decree heretofore

rendered in this case, and grant a new hearing upon following grounds:

1st. Because of the decree of confirmation in said cause was improvidentially entered.

2d. Because of newly discovered evidence which tends to show that the sale or grant of the land, claimed in this cause, was made without any power or authority on the part of the governor, and that the same is absolutely void.

3d. Because a newly discovered evidence which tends to show that the grant or sale of the land in this case was made after the 7th of July, 1846, and is fraudulent and antedated.

J. R. GITCHELL, *Dis't att'y.*
ISAAC HARTMAN, *As. counsel.*

Filed Dec. 8th, 1858.

C. SIMS, *Clerk.*

46 In the district court of the United States for the southern district of California.

THE UNITED STATES, appellant, *vs.* SANTIAGO ARGUELLO, appellee. } No. 347, D. C. Mission San Diego. No. 175, L. C.

Isaac Hartman, being duly sworn, upon his oath says, that for several months past he has been in the employment of the United States government as special counsel in what are known as the mission cases, pending in the district court of the United States for the northern and southern districts of California; that during the investigations of this affiant in the office of the United States surveyor general for the State of California, with a view of preparing the above entitled causes for trial, he has discovered various laws, orders, and decrees of the supreme government of Mexico relative to these claims, and which show that the grant or sale in this case was made without any authority on the part of the government, and that the governor was expressly forbidden by the supreme government to make the same. Affiant has also discovered various orders, decrees, correspondence, and laws of the supreme goverment of Mexico, as well as various orders and decrees of the former departmental government of the Californias, which also tend to show that the grant in this case is fraudulent and void, and was made, executed, and delivered
47 long after it purports to have been. Affiant further states that all or most of the laws, orders, decrees, and correspondence aforesaid are on file in the archives of the said surveyor general, and are now being copied, translated, and printed for the purpose of making exhibits of the same in the various mission cases still pending in the district court aforesaid; and that, if a rehearing is granted herein, the United States will be able to show the fraudlent character of the claim in this case, and that the aforesaid grant or sale is absolutely void.

And further affiant saith not.

ISAAC HARTMAN.

Sworn to and subscribed before me this 7th day of December, A. D. 1858.

[SEAL.] C. SIMS, *Clerk.*
Pr. W. W. STETSON, *Dep'ty.*

Filed Dec. 8th, 1858.

C. SIMS, *Clerk.*

48 THE UNITED STATES, appellants, *vs.* SANTIAGO ARGUELLO, appellee. } Case No. 347.

The said appellant having filed a motion in said cause to set aside the decree heretofore entered therein, and to grant a rehearing in said cause, on motion of J. R. Gitchell, esq., att'y for the appellant. it is ordered by the court that the argument upon said motion be set down for hearing on the 21st day of February, A. D. 1859; and it is further ordered by the court that the appellant serve upon the appellee, or his attorney, at least twenty days previous to the hearing of said motion, a copy of said motions, a copy of this order, and copies of the affidavits and exhibits to be used on the hearing of said motion.

Filed Dec. 8, 1858. C. SIMS, *Clk.*

49 Whereupon the following proceedings were had in open court, to wit:

United States district court southern district of California.—December term, 1858.

LOS ANGELES, *Dec.* 8, 1858.

SANTIAGO ARGUELLO, appellee, *ads.* THE UNITED STATES, appellant. } No. 347.

Now comes the U. S. district attorney, J. R. Gitchell, and files and reads his motion to set aside the decree heretofore made in this cause and grant a new trial, said motion being supported by affidavit of I. Hartman, filed with said motion, which motion is by the court ordered to be set down for hearing on the 21st day of February, 1859. And it is further ordered by the court that the appellant serve upon the appellee, or his attorney, at least twenty days previous to the hearing of said motion, a copy of this order, and a copy of the affidavits and exhibits to be used on the hearing of said motion.

50 District court of the United States, southern district of California.

THE UNITED STATES, appellant, *vs.* SANTIAGO ARGUELLO, appellee. } No. 347, D. C. Mission of San Diego. No. 175, L. C.

Now comes J. R. Gitchell, U. S. district attorney for southern district of California, and moves the court to set aside the decree here-

tofore rendered in this case, and grant a rehearing upon the following grounds:

1st. Because the decree of confirmation was improvidentially entered.

2d. Because of newly discovered evidence, which tends to show that the sale or grant of the land claimed in this cause was made without any power or authority on the part of the governor, and that the same is absolutely void.

3d. Because of newly discovered evidence, which tends to show that the grant or sale of the land in this case was made after the 7th of July, 1846, and is fraudulent and antedated.

J. R. GITCHELL, *Dist. att'y.*
ISAAC HARTMAN, *Of counsel.*

Filed December 8, 1858. C. SIMS, *Clk.*

In the district court of the United States for the southern district of California.

THE UNIEED STATES, appellant, } No. 347, D. C.
vs. } Mission of San Diego.
51 SANTIAGO ARGUELLO, appellee. } No. 175, L. C.

Isaac Hartman, being duly sworn, upon his oath says, that for several months past he has been in the employment of the United States government as special counsel in what are known as the mission cases, pending in the district courts of the United States for the northern and southern districts of California; that during the investigations of this affiant in the office of the United States surveyor general for the State of California, with a view of preparing the above entitled causes for trial, he has discovered various laws, orders, and decrees of the supreme government of Mexico relating to these claims, and which show that the grant or sale in this case was made without any authority on the part of the governor, and that the governor was expressly forbidden by the supreme government to make the same. Affiant has also discovered various orders, decrees, correspondence, and laws of the supreme government of Mexico, as well as various orders and decrees of the former departmental government of the Californias, which also tend to show that the grant in this case is fraudulent and void, and was made, executed, and delivered long after it purports to have been.

Affiant states that all or most of the laws, orders, decrees, and correspondence aforesaid are on file in the archives of the said surveyor general, and are now being translated and printed for the purpose of making exhibits of the same in the various mission cases still pending in the district court aforesaid, and that if a
52 rehearing is granted herein the United States will be able to show the fraudulent character of the claim in this case, and that the aforesaid grant or sale is absolutely void. And further affiant saith not.

ISAAC HARTMAN.

Sworn to and subscribed before me this 7th day of December, A. D. 1858.

C. SIMS, *Clerk.*
Per W. W. STETSON, *Deputy.*

Filed Dec. 8, 1858.

C. SIMS, *Clerk.*

United States district court, southern district of California.

THE UNITED STATES, appellant, *vs.* SANTIAGO ARGUELLO, appellee. } Case No. 347.

The said appellant having filed a motion in said cause to set aside the decree heretofore entered therein, and to grant a rehearing in said cause, on motion of J. R. Gitchell, esq., att'y for the appellants, it is ordered by the court that the argument upon said motion be set down for hearing on the 21st day of February, A. D. 1859. And it is further ordered by the court that the appellant serve upon the appellee, or his attorney, at least twenty days previous to the hearing of said motion, a copy of this order, and copies of the exhibits and affidavits to be made on the hearing of said motion.

ISAAC S. K. OGIER, *U. S. dist. judge.*

February 1st, 1859, received certified copies of the within.

HALLECK, PEACHY & BILLINGS.

Filed June 13, 1859.

C. SIMS, *Clk.*

53 In the district court of the United States for the southern district of California.

THE UNITED STATES, appellant, *vs.* SANTIAGO ARGUELLO, appellee. } In D. C., No. 347. Mission of San Diego. L. C., No. 175.

To the said appellee, or his attorney:

You are hereby notified that the motion for a rehearing in said cause, heretofore filed, will be brought on for hearing before said district court on the first day of the next term thereof, to be holden in the city of Monterey, district aforesaid, commencing on the 6th day of June, A. D. 1859, or as soon thereafter as the same can be heard.

ISAAC HARTMAN,
Of counsel for appellants.

May 12, 1859, received a copy of the within.

HALLECK, PEACHY & BILLINGS.

Filed June 2, 1859.

C. SIMS, *Clerk.*
Per W. W. STETSON, *Deputy.*

54 Whereupon the following proceedings were had in open court, to wit:

In the United States district court, southern district of California.—June term, 1859.

MONTEREY, *June* 13, 1859.

THE UNITED STATES, appell'ts,
vs.
SANTIAGO ARGUELLO, appellee. } No. 347.

The motion for a rehearing in this cause, heretofore filed by the appellants, coming on to be heard at this day, and after being argued by I. Hartman, counsel for appellants, and Volney E. Howard, counsel by invitation of the bar, the same is submitted to and taken under advisement by the court.

JUNE TERM. 1859. *June* 13, 1859.—In same case further argument was had by the respective counsel of parties, and same continued until June 14th, 1859.

JUNE TERM. *June* 13, 1859.—In same case came the parties into court by their respective counsel, whereupon Isaac Hartman, esq., of counsel for the United States, having concluded his argument therein, the same is continued until to-morrow for further
55 argument.

JUNE TERM. *June* 16, 1859.—In same case, now on this day come the parties aforesaid, by their respective attorneys, whereupon the argument of Mr. Halliday, att'y for the claimants, in reply to counsel for appellants, the same was finally submitted to and taken under advisement by the court for its consideration and decision.

United States district court, southern district Cal'a.—Special September term.

MONTEREY, *Sept.* 12, 1859.

SANTIAGO ARGUELLO, appellee,
ads.
THE UNITED STATES, appelts. } No. 347.

Now, on this day, on motion of I. Hartman, special agent of the United States in land cases, it is ordered by the court that the United States att'ys be allowed to file corrected exhibits of those filed 21st day of April, A. D. 1859, in this case.

56 THE UNITED STATES, appellants,
vs.
SANTIAGO ARGUELLO, appellee. } No. 347, D. C. Mission San Diego. No. 175, L. C.

The appellants having heretofore filed a motion for a rehearing, supported by affidavits and documentary exhibits, and the said motion having been heretofore argued by counsel for the respective parties, and taken under advisement by the court, and the court being fully advised in the premises, now here orders and adjudges that the said motion be, and the same is hereby, overruled.

Filed April 1st, 1861.

G. L. MIX, *Clerk.*
P. JOHN O. WHEELER, *Deputy.*

57 MISSIONS.

[Translation.]

EXHIBIT I.—*Decree relating to the secularization of the missions of California.*

Article 1. The government will proceed to secularize the missions of Upper and Lower California.

Art. 2. In each of said missions shall be established a parish, served by a secular clergyman, with a stipend of from two thousand to two thousand five hundred dollars a year, as the government shall decide.

Art. 3. These parochial curates shall not recover or receive any fees for marriages, baptisms, or under any other name. As regards fees for processions, they shall be entitled to receive such as may be specifically named in the list made out for that object, as concisely as possible, by the reverned bishop of the diocese, and approved by the supreme goverment.

Art. 4. The churches which have served in each mission shall serve as parish churches, with the sacred vases, ornaments, and other articles, which each possesses at present, and such additional furniture belonging to said church as the government may deem necessary for the more decent use of said parish.

Art. 5. The government shall cause to be laid out a *campo santo* for each parish out of the way of the population.

Art. 6. Five hundred dollars a year are appropriated for the service and worship in each parish church.

Art. 7. Of the houses belonging to each mission, the most suitable shall be selected as the residence of the curate, the land ap-
58 propriated to him not to exceed two hundred yards square, and the rest shall be specially devoted to a town-house, primary school, and public establishments and offices.

Art. 8. In order to provide promptly and effectively for the spiritual wants of both the Californias, there is established in the capital of the Upper a vicarship, which shall have jurisdiction over the two territories, and the reverend diocesan shall endow it with the most ample powers.

Art. 9. Three thousand dollars are appropriated as an endowment to this vicarship, the vicar being required to discharge his duties free of charge under any pretext or name, not even for paper.

Art. 10. If, for any cause whatever, the parochial curate of the capital, or any other parish in the district, shall act as vicar, there shall be paid to him one thousand five hundred dollars, besides the stipend of his curacy.

Art. 11. There shall not be introduced any custom which shall require the inhabitants of California to make offerings, however pious they may be, although they may be termed *necessary;* and neither time nor the will of the said inhabitants shall give them any force or weight whatever.

Art. 12. The government shall take effectual care that the reverend diocesan shall contribute, so far as he is concerned, to fulfil the objects of this law.

Art. 13. The supreme government shall provide for the gratuitous transportation, by sea, of the new curates that may be appointed and their families, and besides, may give to each one, for his traveling by land, from four to eight hundred dollars, according to the distance and the number of his family which he brings.

Art. 14. Government shall pay the traveling expenses of the religious missionaries who move; and that they may be accommodated on land as far as their colleges or convents, may give to each from two to three hundred dollars, and, at discretion, so much as may be necessary to such as have not sworn to support the independence, that they may leave the republic.

Art. 15. The supreme government shall pay the expenses arising under this law, out of the products of the securities, capitals,
59 and rents which are regarded as the pious fund in the missions of California.

August 17, 1833.

[Translation.]

EXHIBIT II.—*Figueroa's provisional rules for the secularization of the missions.*

Article 1. The governor, agreeable to the spirit of the law of the 17th August, 1833, and to the instructions which he has received from the supreme government, will, with the co-operation of the prelates of the missionary priests, partially convert into pueblos the missions of this territory, beginning in the next month of August, and commencing at first with ten missions and afterwards with the remainder.

Art. 2. The missionary priests will be exonerated from the administration of temporalities, and will only exercise the functions of their ministry in matters appertaining to the spiritual administration, until the formal division of parishes be made, and the supreme government and diocesan provide curates.

Art. 3. The territorial government will reassume the administration of temporalities in the directive part, according to the following bases:

Art. 4. The supreme government will, by the quickest route, be requested to approve of these provisional regulations.

Distribution of property and lands.

Art. 5. To every individual head of a family, and to all those above twenty-one years of age, although they have no family, a lot of land, whether irrigable or otherwise, of not exceeding four hunded varas square, nor less than one hundred, shall be given out of the common lands of the missions; and in community a sufficient quantity of land shall be allotted them for watering their cattle. Common lands shall be assigned to each pueblo, and when convenient, municipal lands also.

60 Art. 5. One-half of the self-moving property (cattle) shall be distributed among the said individuals, in a proportionable and equitable manner, at the discretion of the governor, taking as a basis the last accounts of all kinds of cattle presented by the missionaries.

Art. 7. One-half or less of the chattels, instruments, and seeds on hand and indispensable for the cultivation of the ground, shall be divided proportionably among them.

Art. 8. The remainder of all the lands, landed property, cattle, and all other property on hand, will remain under the care and responsibility of the mayordomos, or other officers whom the governor may name, at the disposal of the supreme federal government.

Art. 9. From the common mass of this property the subsistence of the missionary padres, the pay of the mayordomos, and other servants, and the expenses of religious worship, schools, and other objects of policy and ornament, shall be provided.

Art. 10. The governor, having under his charge the direction of temporal affiairs, will determine and regulate, according to circumstances, all the expenses necessary to be laid out, as well for the execution of this plan as for the conservation and augmentation of this property.

Art. 11. The missionary minister will select the locality in the mission which may best suit him, for his own habitation, and that of his servants and attendants; and he shall be furnished with the necessary furniture and implements.

Art. 12. The library, sacred dresses, ornaments, and furniture of the church, shall be put in charge of the missionary padre, under the responsibility of the person who acts as subscriber, and whom the priest himself shall elect, and a reasonable salary be given for his troubles.

Art. 13. General inventories shall be made of all property on hand in each mission, with due separation and explanation of the different branches; of the books, debit and credit, and all kinds of papers; of the amount owing by and to the missions; which document and account shall be forwarded to the supreme government.

61 *Political government of the pueblos.*

Art. 14. The political government of the pueblos shall be organized in perfect conformity with the existing laws; the governor will give the necessary instructions to have the ayuntamientos established and elections made.

Art. 15. The economical government of the pueblos shall be under the charge of the ayuntamientos; but, as far as regards the administration of justice in contentious affairs, they will be subject to the primary judges of the nearest towns constitutionally established.

Art. 16. The emancipated Indians will be obliged to assist at the indispensable common labor which, in the opinion of the governor, may be judged necessary for the cultivation of the vineyards, orchards, and cornfields, which, for the present, remain undisposed of until the resolution of the supreme government.

Art. 17. Said emancipated Indians will render to the missionary priest the necessary personal service for the attention of his person.

Restrictions.

Art. 18. They cannot sell, burden, or alienate, under any pretext, the lands which may be given them; neither can they sell their cattle. Whatever contracts may be made against these orders shall be of no value; the government will reclaim the property as belonging to the nation, and the purchasers shall lose their money.

Art. 19. The lands whose owners shall die without heirs, shall revert to the possession of the nation.

General orders.

Art. 20. The governor will name such commissioners as he may see fit to carry this plan and its incidents into effect.

Art. 21. The governor is authorized to resolve any doubt or matter which may arise relative to the execution of these regulations.

Art. 22. Until these regulations be put in force, the reverend missionary padres are prohibited from slaughtering cattle in large quantities, except the common and ordinary number accustomed to be killed for the subsistence of the neophytes, without allowing any waste.

Art. 23. The debts of the mission shall be paid in preference, out of the common mass of the property, at the time and in the manner that the governor shall determine.

That the fulfilment of this law may be perfect the following rules will be observed:

1st. The commissioners, so soon as they shall receive their appointments and orders, shall present themselves at the respective missions and commence the execution of the plan, being governed in all things by its tenor and these regulations. They shall present their credentials respectively to the priests under whose care the mission is, with whom they shall agree, preserving harmony and proper respect.

2d. The priests shall immediately hand over and the commissioners receive the books of accounts and other documents relating to property claims, liquidated and unliquidated; afterwards general inventories shall be made out, in accordance with the 13th article of this regulation, of all property—such as houses, churches, workshops, and other local things—stating what belongs to each shop; that is to say, utensils, furniture, and implements; then, what belongs to the homestead; after which shall follow those of the field; that is to say, property that grows, such as vines and vegetables, with an enumeration of the shrubs, if possible, mills, etc.; after that, the cattle and whatever appertains to them; but as it will be difficult to count them, as well on account of their number as for the want of horses, they shall be estimated by two persons of intelligence and probity, who shall calculate, as nearly as may be, the number of each species to be inserted in the inventory. Everything shall be in regular form

in making the inventory, which shall be kept from the knowledge of the priests, and under the charge of the commissioner or steward; but there shall be no change in the order of the work and services, until experience shall show that it is necessary, except in such matters as are commonly changed whenever it suits.

3d. The commissioner, with the steward, shall dispense with all superfluous expense, establishing rigid economy in all things that require reform.

63 4th. Before he takes an inventory of articles belonging to the field, the commissioner will inform the natives, explaining to them, with mildness and patience, that the missions are to be changed into villages, which will only be under the government of the priests so far as relates to spiritual matters; that the lands and property for which each one labors are to belong to himself, and to be maintained and controlled by himself, without depending on any one else; that the houses in which they live are to be their own, for which end they are to submit to what is ordered in these regulations, which are to be explained to them in the best possible manner. The lots will be given to them immediately, to be worked by them as the 5th article of the regulations provides. The commissioner, the priest, and the steward shall choose the location, selecting the best and most convenient to the population, and shall give to each the quantity of ground which he can cultivate, according to his fitness and the size of his family, without exceeding the *maximum* established. Each one shall mark his land in such manner as may be most agreeable to him.

5th. The claims that are liquidated shall be paid from the mass of property; but neither the commissioner nor the steward shall settle them without the express order of the government, which will inform itself on the matter, and, according to its judgment, determine the number of cattle to assign to the neophytes, that it may be done, as heretofore, in conformity with what is provided in the 6th article.

6th. The necessary effects and implements for labor shall be assigned in the quantities expressed by the 7th article, either individually or in common, as the commissioner and priest may agree upon. The seeds will remain undivided, and shall be given to the neophytes in the usual quantities.

7th. What is called the priesthood shall immediately cease; the female children whom they have in charge being handed over to their fathers—explaining to them the care they should take of them, and pointing out their obligations as parents. The same shall be done with the male children.

8th. The commissioner, according to the knowledge and information which he shall acquire, shall name to the government,
64 as soon as possible, one or several individuals, who may appear to him suitable and honorable, as stewards, according to the provisions of the 8th article, either from among those who now serve in the missions, or others; he shall also fix the pay which should be assigned them, according to the labor of each mission.

9th. The settlements which are at a distance from the mission, and consists of more than twenty-five families, and which would desire to

form a separate community, shall be gratified; and the appropriation of lands and other property shall be made to them as to the rest. The settlements which do not contain twenty-five families, provided they be permanently settled where they now live, shall form a suburb, and shall be attached to the nearest village.

10th. The commissioner shall state the number of souls which each village contains, in order to designate the number of municipal officers, and cause the elections to be held, in which they will proceed, conforbably, as far as possible, to the law of June 12, 1830.

11th. The commissioners shall adopt all executive measures which the condition of things demands, giving an account to the government, and shall consult upon grave and doubtful matters.

12th. In everythiug that remains, the commissioners, the priests, stewards, and natives, will proceed according to the provisions of the regulation.

JOSE FIGUEROA.

AUGUSTIN V. ZAMORANO, *Secretary.*

Monterey, August 9, 1834.

[Translation.]

EXHIBIT III.—*Law of April* 16, 1834, *relating to the secularization of the missions of the republic.*

Article 1. All the missions of the republic shall be secularized.

Art. 2. The missions shall be converted into curacies, the limits of which shall be designated by the governors of the States where the said missions are.

65 Art. 3. This decree shall take effect within four months from the day of its publication.

April 16, 1834.

[Translation]

EXHIBIT IV.—*Instructions given by the central government to Don Jose M. Hijar in relation to the secularization of the missions and colonization of California.*

Instructions by which Don Jose Maria Hijar, political chief of Upper California and director of the colonization of that and Lower California, is to govern himself.

Article 1. He will cause a beginning to be made in occupying all the property belonging to the missions of both the Californias, and the military commandant under his responsibility will lend, whenever required to do so, the necessary aid for the said occupation.

Art. 2. For the term of a year from the day on which the colonists shall arrive at the place they are to occupy, each one shall be allowed fiftv cents a day, if they be four years beyond the term of their majority, and twenty-five cents if they be of a less age.

Art. 3. The expenses of traveling by sea and land shall be charged to the confederation. All the means of conveyance furnished, or which should be furnished, shall be given to the colonists, in full ownership.

Art. 4. Communities shall be formed by uniting the number of families which are sufficient to live in security, selecting situations that are suitable on account of the quality of the soil, the abundance and salubriousness of the waters, and the favorableness of the winds.

Art. 5. The frontier stations shall be settled at the earliest period practicable.

Art. 6. Topographical plans shall be prepared on which shall be designated and marked the squares of which the settlement is to consist. The length of each side of the square shall be one hundred yards, and all of its sides shall be equal. The width of the 66 streets shall be twenty yards, and no lanes or alleys shall be permitted to exist in them. The open spaces shall be divided into ten streets each, besides the great *plaza* which shall be in the centre of the settlement.

Art. 7. Special care will be taken to collect into the villages the natives, mingling them with the other inhabitants, and no community will be permitted to exist composed entirely of them.

Art. 8. In each of the sections of the villages lots will be given to families that they may build houses; but they will not be suffered to build beyond the lines marked out for streets.

Art. 9. Outside of the villages, to each family, will be given, in full proprietorship and control, four portions of land, if it be irrigable, eight if it be temporal, (land dependent upon the seasons,) and sixteen if it be under water. There shall also be given four cows, two yoke of oxen or bulls, two tame horses, four colts, four young mares, four head of the smaller description of stock, two male and two female, besides the number of ploughs usually furnished.

Art. 10. Between every two lots belonging to individuals, there shall be an opening of public equal to two lots.

Art. 11. After the distribution of the movable property of the missions of California, one-half of the remaining property shall be sold in the most advantageous manner.

Art. 12. There shall not be sold to any one family more than two hundred head of cattle of the same kind.

Art. 13. The remaining half of the movable property shall be reserved for the general government, and shall be applied to the expenses and subsistence of the missionaries and the payment of the salaries of the masters of the primary schools, the supplies of necessaries to the children of both sexes in the schools, and the purchase of implements of husbandry, which are to be furnished *gratis* to the colonists.

Art. 14. The political chief and director of colonization shall give at present, and annually hereafter, a detailed account of the products of the property of the missions, of the changes in them, and of the articles that are left, and the distribution of the movable property among the colonists.

Art. 15. He shall furnish, at least once in each year, re-
67 turns of the condition of the colonists, of the causes of losses, if there be any, and the means of making them prosper.

LOMBARDO.

Office of the First Secretary of State,
Department of the Interior, Mexico, April 23, 1834.

[Translation]

EXHIBIT V.—*Regulations respecting the missions which had been secularized agreeably to the supreme order of 17th August*, 1833.

EXTRA SESSION of Nov. 3, 1834.
Territorial Deputation.

1st. In conformity with the 2d article of the law of 17th August, 1833, there is allotted, *ad interim*, to priests who discharge the duties of parochial curates, the sum of one thousand five hundred dollars to such as serve as curates of the first class, and a thousand dollars to those of the second class.

2d. The curacies which are regarded as of the first class are those of the united population of San Diego and San Dieguito, San Luis Rey, Las Flores and the population annexed, San Gabriel and Los Angeles, the two united populations of Santa Barbara, San Carlos and Monterey together, Santa Clara united to San José de Guadalupe and San José, San Francisco Solano, San Rafael and Coloma. Those which are regarded as of the second class are, San Juan Capristrano, San Fernando, San Buenaventura, Santa Ynez and La Purisima, San Luis Obispo, San Miguel, San Antonio, and La Soledad, San Juan Bautista and Santa Cruz, San Francisco de Asis, and El Presidio.

3d. In conformity with the 8th and 9th articles of the law referred to, R. P. commissary prefect, Señor Francisco Garcia Diego, will reside in this capital; and the political chief will request of the reverend diocesan to confer upon the said prelate the powers belonging to said vicarship. His salary will be three thousand dollars a year, as provided by said law.

4th. The vicar and curates will be governed in all other respects by the law of August 17, 1833, already cited.

68 5th. Until the government shall provide parochial curates, the respective prelates will discharge the duties, provisionally, with the consent of the political chief.

6th. In conformity with the 6th article of said law, five hundred dollars a year will be paid for worship and service in each parish.

7th. The salaries of the vicar, curates, and amount for worship, will be paid from the common fund of the suppressed missions. The political chief will give orders that it may take effect.

8th. The 17th article of the provisional regulation of secularization, which required Indians to give personal services to the priests, is of no effect.

9th. In accordance with the 7th article of the said law, the political chief will cause the places for the dwellings of the curates, the town-houses, primary schools, and offices to be ascertained.

10th. The other points to which the superintendence of the Rev. Prelate Fr. Narcisco Duran shall be devoted, as works determined on, are such as are authorized by the political chief as provided by the 21st article of the laws.

11th. This resolution shall be communicated, with the order to the prelates, that they may make it known to those under them.

Addition to second article.

Curacies that embrace two or more villages shall regard the first named as the head, where the officiating curates reside in the suppressed missions of San Diego and Santa Barbara.

[Translation.]

EXHIBIT VI.—*Laws of the Mexican Congress suspending the execution of the act of August* 17, 1833.

Until the curates shall take possession under the 2d article of the law of August 17, 1833, the government shall suspend the execution of the remaining articles, and keep matters in the condition in which they were before the passage of said law.

MEXICO, *November* 7, 1835.

69 [Translation.]

EXHIBIT VII.—*Rules and regulations of Governor Alvarado, respecting missions, January* 17, 1839.

The fact of there not having been published in due season a set of regulations, to which the management of the *administradores* of the missions ought to have been subject from the moment the so-called secularization was attempted, having caused evils of great transcendency to this Upper California—as these officers, authorized to dispose without limit of the property under their charge, do not know how to act in regard to their dependence upon the political government—and that of the most excellent departmental junta not being at present in session to consult with, respecting the necessary steps to be taken under such circumstances, since the regulations of said secularization neither could nor can take effect, on account of the positive evils attending the fulfilment thereof, as experience itself has demonstrated—has induced this government, in consideration of the pitiful state in which said establishments at present are, to dictate these provisional regulations, which shall be observed by said administrators, who shall subject themselves to the following articles:

Article 1. All persons who have acted as administrators of missions, will, as soon as possible, present to the government the accounts corresponding to their administration for due inspection, excepting those persons who may have already done so.

Art. 2. The present administrators, who, at the delivery of their predecessors, may have received said documents as belong to the archives, will return them to the parties interested, who, in virtue of the foregoing article will themselves forward them to government, they being solely responsible.

Art. 3. Said officers will likewise remit those belonging to their administration up to the end of December of last year, however long they may have been in office.

Art. 4. Said officers will remit as soon as possible an exact account of the debts owing by and to the missions, which may at different times have been contracted.

70 Art. 5. Under no title or pretext whatever shall they contract debts, whatever may be the object of their inversion, nor make sales of any kind, either to foreign merchants or to private persons of the country, without the previous knowledge of government; for whatever may be done to the contrary shall be null and without effect.

Art. 6. The amounts owed by the establishments to merchants and private persons cannot be paid without an express order from government, to which must likewise be sent an account of all such property of each mission as it has been customary to make such payments with.

Art. 7. Without previous permission from said government, no kind of slaughtering of cattle shall take place, except what is necessary for the maintenance of the Indians, and the ordinary consumption of the house; and even with respect to this the person in charge will take care that, as far as possible, no female animals be killed.

Art. 8. The traffic of mules and horses for woolen manufactures, which has hitherto been carried on, in the establishments, is hereby absolutely prohibited; and in lieu thereof, the person in charge will see that the looms are got into operation, so that the wants of the Indians may thus be supplied.

Art. 9. At the end of each month, they will send to government a statement of the ingress and egress of all kinds of produce that may have been warehoused or distributed, it being understood that the Indians at all times are to be provided for in the customary manner with such productions; to which end the administrators are empowered to furnish them with those which are manufactured in the establishment.

Art. 10. The administrators will in this year proceed to construct a building on account of the establishment, to serve them for a habitation, and they may choose the locality which they may deem most convenient, in order that they may vacate the premises which they now occupy.

Art. 11. They shall not permit any individual of those called *de razon* (white people) to settle themselves in the establishments while the Indians remain in community.

Art. 12. They will at an early period present a census of all the inhabitants, distinguishing their classes and ages, in order to
71 form general statistics; and they will likewise mention those who are emancipated and established on the lands of said establishments.

Art. 13. The establishments of San Carlos, San Juan Bautista, and Sonoma, are not comprehended in the orders of this regulation. The government will regulate them in a different manner; but the admin-

istrators, who at different times may have had the management of their property, will be subject to the orders contained in articles one and two.

Art. 14. They will likewise remit an account of all persons employed under them, designating their monthly pay, according to the orders which may have been given, including that of the reverend padres, with the object of regulating them according to the means of each establishment; and these salaries shall not be paid now, nor hereafter, with self-moving property.

Art. 15. The administrators will, under the strictest responsibility, fulfil these orders with the understanding that, in the term of one month, they shall send the information required of them.

Art. 16. Government will continue making regulations respecting everything tending to establish the police to be observed in the establishments, and the manner to be observed in making out the accounts.

Art. 17. For the examination of these accounts, and everything thereto relating, the government will appoint a person with the character of inspector, with a competent salary, to be paid out of the funds of said establishments; and this person will establish his office where the government shall appoint, and have regulations therefor in due time.

[Translation.]

EXHIBIT VIII.—*Instructions to be observed by W. E. Hartnell in the inspection of the establishments of the missions of Upper California.*

Article 1. It being a matter of the greatest importance that
72 the missions be regulated as intended when I published my provisional regulations of the 17th of January last, you will methodize the order which you consider best adapted to obtain the monthly information required, and have the annual accounts of the missions kept, and you will instruct the administrators how they shall organize them.

Art. 2. You will, with prudence and foresight, take an exact account of the self-moving property, and all other property on hand, calculating, as near as possible, the number of cattle, if it cannot be exactly got at.

Art. 3. In order to examine and count said cattle, you will take along with you a person of probity and information, who will attend to this business; and you will offer him the compensation which you may deem just for his services while the inspection lasts.

Art. 4. On presenting yourself at each of the establishments you will inform the administrator of the object of your arrival, referring to him or manifesting to him the respective orders, so that there may be no legal pretext for not punctually observing them.

Art. 5. If any of the administrators of the missions should make known to you any palpable wants which in your opinion ought to be immediately remedied, you will take the proper steps to do so, although it may be necessary to dispose of some of the produce on hand in the stores.

Art. 6. Should any of the reverend padres, or other persons employed, make any complaints to you relating to the management of the administrators, you will with due prudence make the decision which you think most just, and use your utmost endeavors to keep up harmony among all classes.

Art. 7. You will exhort the administrators to use all possible economy in the use of provisions, weekly and annual slaughtering of cattle, and crops of all kinds of eatables, in order by all these means to further the progress of these establishments.

Art. 8. You are authorized to regulate the weekly and annual slaughtering which it has been customary to make in the missions, taking into consideration the number of calves, marked (annually) so that the stock of cattle may not diminish.

73 Art. 9. You will likewise recommend the administrators to be affable in their treatment of Indians, and that the punishment they inflict be moderate and proportioned to their state of uncivilization; and that (the administrators) see that frequent divine service agreeably to the education which they have received.

Art. 10. If any of the administrators should disobey the orders of this government and not fulfil them duly, in spite of the good treatment you give them, you will inform the government by a courier, that it may determine what is to be done; and in case that circumstances should require it, you are authorized to suspend such officer for the time that you may consider necessary, and put the mayordomos in charge in the meantime, in order that the labors of your commission be not paralyzed; and you will likewise inform the government, in order that it may determine what may be convenient.

Art. 11. The government expects from your zeal that you will be diligent in your commission, collect all kinds of information, and make the necessary observations for the formation of the police regulations which were promised in those of the 17th, already cited.

ALVARADO.

[Translation]

EXHIBIT IX.—*Regulations of Governor Alvarado respecting the missions of California, dated March* 1, 1840.

Experience having proved in an undoubted manner that the missions of Upper California, for want of regulations organizing the management of the persons in charge of them, have in a short time suffered reverses and losses of great moment. The many abuses which are found to exist in the administration of the property of said missions, obliged this government to issue the regulation of 17th January, last year; but as it has been found that those have not been sufficient to root out the evils which are experienced, particularly on account of the high salaries with which the establishments are burdened, and which they cannot support; and being desirous to establish economy and a regular administration until the su-

74 preme government determine what it may deem proper, I publish the present regulations, which are to be strictly observed:

Article 1. The situations of administrators in the missions of Upper California are abolished, and in their stead mayordomos are established.

Art. 2. These mayordomos will receive the following salaries: Those of San Diego and San Juan Capistrano, one hundred and eighty dollars; those of Santa Barbara, San Luis Obispo, San Francisco de Asis, and San Rafael, two hundred and forty dollars; those of San Buenaventura, La Purisima, San Miguel, and San Antonio, three hundred dollars; those of San Fernando and Santa Ynez, four hundred dollars: those of San Luis Rey and San Gabriel four hundred and twenty dollars; the one of Santa Clara, four hundred and eighty dollars, and the one of San José, six hundred dollars.

Art. 3. The former administrators may occupy said situations, provided that they be proposed in the manner pointed out by these regulations.

Art. 4. The situation of inspector, and the office established agreeable to the 17th article of the regulations of the 17th January, last year, shall continue, with a salary of three thousand dollars per annum, and his powers will be hereafter designated.

Obligations of mayordomos.

Art. 5. To take care of everything relative to the advancement of the property under their charge, acting in concert with the reverend padres in the difficult cases which may occur.

Art. 6. To compel the Indians to assist in the labors of the community, chastising them moderately for the faults which they may commit.

Art. 7. To see that said Indians observe the best morality in their manners, and oblige them to frequent the church, at the days and hours that have been customary; in which matter the reverend padres will intervene in the manner and form determined in the instructions given by the inspector to the administrators.

Art 8. To remit to the inspector's office a monthly account
75 of the produce they may collect into the storehouses, and an annexed one of the crops of grain, liquors, etc., and of the branding of all kinds of cattle.

Art. 9. Said account must be authorized by the reverend padres.

Art. 10. To take care that the reverend padres do not want for their necessary aliment, and furnish them with everything necessary for their personal subsistence, as likewise to vaqueros and servants, which they may request for their domestic service.

Art. 11. To provide the ecclesiastical prelates all the assistance which they may stand in need of, when they make their accustomed visits to the missions through which they pass; and they are obliged, under the strictest responsibility, to receive them in the manner due to their dignity.

Art. 12. In the missions where the said prelates have fixed their residence, they will have the right to call upon the mayordomos at any hour when they may require them; and said mayordomos are required to present themselves to them every day at a certain hour, to know what they require in their ministerial functions.

Art. 13. To furnish the priests of their respective missions all necessary assistance for religious worship; but in order to invest any considerable amount in this object, they will solicit the permission to do so from government, through the medium of the inspector.

Art. 14. To take care that in the distribution of goods received from the respective office to the Indians, the due proportion be observed among the different classes and description of persons; to which end the reverend padres shall be called to be present, and they will approve of the corresponding list of distribution.

Art. 15. To observe all the orders which they receive from the inspector's office, emanating from the government, and to pay religiously all drafts addressed to them by said conduct, and authorized by said government.

Art. 16. They will every three months send to the respective offices a list of the goods and necessaries they may stand in greatest need of, as well for covering the nakedness of the Indians and carrying on the labor of the establishment as to provide for the necessities of the priests and religious worship; so that, comparing these
76 requisitions with the stock on hand, the best possible remedy may be applied.

Art. 17. They will take care to furnish the necessary means of transport and provisions to the military or private persons who may be traveling on the public service; and they will provide said necessaries as well for the beforementioned persons as for the commandants of stations who may ask for assistance for the troops; and send in a monthly account to the inspector, that he may recover the amount from the commissariat.

Art. 18. They will likewise render assistance to all other private individuals who may pass through the establishments, charging them for food and horses an amount proportioned to their means.

Art. 19. They will take care that the servants under them observe the best conduct and morality, as well as others who pass through or remain in the establishments; and in urgent cases they are authorized to take such steps as they may consider best to preserve good order.

Art. 20. They may, without any charge, make use of the provisions produced by the establishments, for their own subsistence and that of their families.

Art. 21. They may employ as many servants as they consider necessary for carrying on the work of the community; but their situations must be filled entirely by natives of the establishments themselves.

Art. 22. Said mayordomos are merely allowed to request the appointment of a clerk to carry on their correspondence with the inspector's office.

Art. 23. After the mayordomos have for one year given proofs of their activity, honesty, and good conduct, in the fulfilment of their obligations, they shall be entitled (in times of little occupation) to have the government allow the Indians to render them some personal services in their private labors; but the consent of the Indians must be previously obtained.

Art. 24. The mayordomos cannot make any purchase of goods from merchants, nor make any sale of the produce or manufactures of the establishments, without previous authority from government; second, dispose of the Indians in any case for the services of private
77 persons, without a positive superior order; third, make any slaughtering of cattle, except what shall be ordered by the inspector to take place weekly, extraordinarily, or annually.

Obligations of the inspectors.

Art. 25. To make all kinds of mercantile contracts with foreign vessels and private persons of the country for the benefit of the missions.

Art. 26. To provide said establishments with the requisite goods and necessaries mentioned in the lists of the mayordomos, taking into consideration the stock of each establishment.

Art. 27. To draw bills for the payment of the debts contracted by his office, and those already due by the establishments.

Art. 28. He shall be the ordinary conductor of communication between the government and the subaltern officers of said missions, as well as between all other persons who may have to apply to government respecting any business relative to said establishments.

Art. 29. He will pay the salaries of the mayordomos and other servants, take care that they fulfil their obligations, and propose to government, in conjunction with the reverend padres, the individuals whom they may consider best qualified to take charge of the missions.

Art. 30. He will determine the number of cattle to be killed weekly, annually, or on extraordinary occasions.

Art. 31. He will form the interior regulations of his office, and propose to government the subalterns which he may judge necessary for the proper management thereof.

General orders.

Art. 32. All merchants and private persons who may have any claims on said missions will, in due time, present to the inspector an account of the amounts due to them, with the respective vouchers, in order that the government may determine the best manner of settling them, as the circumstances of said mission may permit.

78 Art. 33. With respect to the missions of San Carlos, San Juan Bautista, Santa Cruz, La Soledad, and San Francisco Solano, the general government will continue regulating them as circumstances may permit.

Art. 34. Officers and magistrates of all kinds are at liberty to manifest to government the abuses they may observe in those charged with fulfilling these regulations, so that a quick remedy may be applied.

Art. 35. The government, after previously hearing the opinions of the reverend padres, will arrange matters respecting the expenses of religious worship, and the subsistence of said padres, either by fixing a stated amount for both objects, or in some other manner which may be more convenient toward attending to their wants.

Art. 36. All prior regulations and orders conflicting with the present are annulled; and if any doubt occurs respecting their observance, the government will be consulted through the established channel.

Art. 37. During the defect or temporary absence of the mayordomos, the reverend padres will, in the meantime, take charge of the establishments.

[Translation.]

EXHIBIT X.—*Petition made to the supreme government by the most illustrious senor bishop of the Californias, in his communication of the 7th inst., and a private letter of the same date.*

From the time the temporalities they created and augmented with their personal labor and their stipends were taken away from the missionaries, the seculars, and their attendants, and among them some with whom I am acquainted, to whom could not be trusted even a small quantity, entered into the possession of the property of the missions, the destruction of said property in such hands is already understood.

There should exist in the ministry of your excellency, reclamations which I have made upon this subject, and whereupon
79 the general congress passed a law suspending the ordering the secularization of the missions, which, as I conceive up to the present time, has not been carried into effect, probably by just considerations of government.

In the next reclamations I made, in the year 1836, I notified the supreme government of the evils which the missionaries have to contend with, and not the least among them that the administradores of the missions took possession of the houses in which the fathers were living—houses built by the religieuses, and in the construction of which they invested the stipends which they were receiving, and the labor of their hands. They have been compelled, as I myself can bear witness, to live there as so many bankrupts and with great inconvenience.

They keep in the habitation certain people who some nights, by their intoxication, gambling, and dancing, which with shame the neophytes are witnessing, disturb their rest! Verily unsupportable! What a miserable life for a few devoted religieuses, and so much so that many of them have contemplated the abandonment of the missions, and seek the peace and tranquility of their minds in retirement! Tormenting life, that dissuaded many from going to the missions, not to expose themselves to so much suffering and disregard for their character! I do not wish it to be believed from this that I wish the delivery of the temporalities to the religieuses to be carried into effect.

I well know, and have already communicated it to the government, that within a short time there will be nothing of the property of those opulent missions, which the administradores received when the fathers delivered them over. What I desire is, that for the new missions that may be established, some legislation may be taken to prevent the recurrence of such flagrant disorders.

Otherwise, what missionary father is there who may wish to labor to increase the property of the unhappy Indians, if experience teaches him to know that they are to be taken away from their legitimate owners, and delivered to others to enjoy, without having cost them any anxiety or labor? Who is the religieuse that would desire to build a house, or plant an orchard for his recreation and com-
80 fort, if he has seen that they are to be taken away from him, and are taken possession of by men who before have been supported by alms from the said missionaries, and that the señors unexpectedly move and the unhappy fathers have to live at their own expense?

What I insist on, and will always insist, is that the houses and orchards which they or their predecessors have made, which are contiguous to and in immediate communication with the churches, remain to the benefit and use of the missionaries. The administradores, as they have at their disposition the Indians and property of the missions, can build a house for them, and leave the fathers in peace and quietude. I deem this measure of so great necessity, that if it is not adopted, there will not be any one who will desire to go to serve the missions. From the present time I lay the matter before the supreme government, and if it is a measure so necessary for the missionaries, what shall be said with respect to the bishop? It would be a deplorable thing that meanwhile he erects his house, he should have no place in which to collect his family, or where to put his students and ministers, neither where to commence his seminary.

Therefore, then, I pray the supreme government:

1st. That an order be issued (which I will bear) for the delivery of the houses and orchards of the mission of the missionaries, and that in the interim, that San Diego or that of San Luis Rey may be occupied by the bishop and his attendants, together with the missionary father, until the bishop can build his episcopal house, and the edifice for his seminary.

2d. As it might be anticipated, the administradores refuse the fathers the services of the Indians, and this even when offering them liberal pay. This demands another disposition of the supreme government, in order that I may be furnished servants with equitable and not arbitrary salaries. At the same time. I pray that the lands upon which to buil dmy church, my house, and my seminary may be given me.

3d. The supreme government is well apprised that I have in my bishopric no other clergy besides the Fernandines, Zacatecans, and Dominicans religieuses of the province of Mexico, and if the pre-
81 lates of these orders should deprive us of their subjects I would not have any one with whom to fill their places for the present.

As I have been informed, the provincial father of Santo Domingo intends or contemplates withholding, from the religieuses his subjscts, the powers which as missionaries in their order they are enjoying; and this measure would tend a great deal to induce the former to leave, and prevent others from going to the missions—and it should extract from the consideration that the sacrifices which they make are unprofitable to them and their religion.

Wherefore I pray the supreme government to notify the rev. provincial father not to make any innovation. and that the missionaries continue as they are until the bishop shall have clergymen to occupy their places, and till they may be able to devote themselves to the triumphant conversions. I also desire the government to commend me to the rev. guardian fathers of Guadalupe, of Zacatecas, and San Fernando, in order that they may supply me with religieuses, and that if any desire to accompany me, it may not be forbidden them.

4th. The supreme government asked the holy Pope, through our messenger to Rome, that I should be permitted to carry to my bishopric, as many clergymen (sacerdotes) as should desire to accompany me, and should meet my approbation without their respective prelates being able to prevent it. This authority did not come among those I have in my possession. I would desire, therefore, that this particular be laid before Señor Montoyo, and that meanwhile the government may be engaged with the parties when any one, whether of the secular or regular clergy shall give notice thereto of his desire to accompany me and I manifest my approbation to government.

5th. As the conversion of the heathen and the propagation of the faith is one of my principal objects, it is indispensable that I have an agency for the accomplishment of my desires. The colleges approved by the republic, except that of Guadalupe and of Zacatecas, are failing, and this is scarcely able to protect the ten missions now under my charge. I therefore believe it to be necessary to permit me to establish a board of missionaries in my bishopric, that these may
82 continue forming new missions or parishes; and I pray the government, through our messenger to Rome, to supplicate the holy Pope that I may proceed, although with but one religieuse, to the foundation in order that the latter may confer habits and professions upon those who may desire to dedicate themselves to the all important conversion of the heathen. Likewise I request that the island called Los Angeles be given for the location of this college, or some other tract of land suitable for the purpose.

6th. The girls, generally, have suffered the want of the education and instruction necessary to make them useful in society. Therefore I desire to establish at the place of my residence a female college, for which I need an adequate tract of land.

7th. By an anomaly which I did not understand, the tithes have been collected in my bishopric on behalf of the civil government of Sonora. These authorities should be prohibited from doing this, so that the faithful may be at liberty to give them, henceforth, to the church, which, although small, will assist in the grand schemes of public beneficence that I have formed.

8th. The government burdened the charitable fund of my church by a loan which it made to Señor Teran of seventy thousand dollars, at the ruinous interest of two per cent. per month. The government obligated itself to pay (as I am informed) upwards of two hundred dollars daily, for the purpose of extinguishing this onerous debt. For a short time it fulfilled this promise, and afterwards it has left it against the fund, which, in order not to lose its threatened capital

upon the same conditions of the loan, has been making sacrifices to fund the debt, as well as to pay the monthly interest. Under the circumstances the said fund has become destitute of the *arbitrios* of *given* the stipends to the missionaries, whose drafts are funding, and unable to render me any assistance in the expenditures which I should make to proceed to my diocese, which, as your excellency is well aware, are great. It is, therefore, just that I ask the government to provide some means to settle the debt of Señor Teran immediately, in order that the fund may remain unembarrassed.

83 I neglected to mention in my communication that I desire to locate my edifices, or rather to form a settlement on a rancho situate in front of San Diego, as well for the conveniences thereof for water and wood, as for not being littoral and exposed to the invasions of any pirate. Moreover, its climate is very good. If the government should desire to have a military force there, it would be of the greatest importance to the communication with Sonora, because it would repress the Indians from the Rio Colorado, and it would also be very important in any attempt to subdue these miserable beings, and to their temporal and spiritual happiness. I am persuaded that the communication with the interior of our republic by this means would be facilitated, and the government would have more frequent intelligence from this department.

(Signed) F. FRANCO,
Obispo de California.

[Translation.]

EXHIBIT XI.

MINISTRY OF THE INTERIOR.

MOST ILLUSTRIOUS SIR: Having placed the communication of your most illustrious worship, of the 17th inst., before his excellency, the president, and having examined everything set forth therein, in order that you may fulfil your responsible duties as bishop of California, he has been pleased to decree in conformity with everything asked in the said communication, and also that which you solicited in a separate letter of the same date, to the extent of the prerogatives of his excellency, and in conformity with the decree of the general congress of Nov. 7, 1835, which provided that the missions remain in the state in which they existed prior to the law of August 17, 1833, for which purpose an order is issued from this ministry to his excellency, the governor of California, to restore, without delay, by means of the subaltern authorities, to the missionary fathers, the possessions and property which were under their administration for the conversion of the heathen.

84 In contestation, I communicate to your most illustrious worship. God and liberty. Mexico, November 17, 1840.

(Signed) MARIN.

MOST ILLUSTRIOUS SENOR, BISHOP OF THE CALIFORNIAS: At the solicitation of the señor bishop of California, I hereby certify that the

signature affixed to this document, is that of the minister of the interior at the said date, Señor Marin, according to other official documents that I have seen from said person.

San Francisco, December 20, 1851.

[L. S.] (Signed) SCHLEIDEN,
Mexican vice-consul for San Francisco.

Vice-consulate of the Mexican republic in San Francisco.

I, George Fisher, secretary of the U. S. land commissioners to ascertain and settle private land claims in California, hereby certify the foregoing to be a true and correct translation of "Exhibit No. II, P. L., annexed to the deposition of José Miguel Gomez, Dec. 29, 1854," Joseph S. Allemany *vs.* The United States, now on file in this office.

In testimony whereof I have signed my name, at office, at the city of San Francisco, California, this 27th March, 1855.

GEO. FISHER, *Secretary.*

[Translation.]

EXHIBIT XII.

November 7, 1840.

His excellency, the president, has been pleased to decree, in conformity with everything the reverend bishop of the Californias has petitioned in this communication, to the full extent of his authority, and in conformity with the decree of congress of the 7th November, 1835, which ordered the missions to be restored to their former con-
85 dition; for which purpose, a general order shall be issued to the señor governor of the Californias, for the restoration, by means of subaltern authorities, without delay or impediment, of the possessions and property used by them under their administration for the conversion of the heathen to the missionary fathers, and this and all other orders issued in attention to the petition of the reverend bishop, shall be placed in the hands of his grace, for his greater success; and another order shall be delivered to him for the governor, to render him assistance in whatever may pertain to the establishment of the bishopric. And so far as respects the lands, whether they now are or have been in the possession of the missions, let an *oficio* issue to the board of directors of the bank for the purpose of conferring with his grace, so far as it may be consistent with his well known charity, upon whatever may facilitate his petitions, and he will manifest the amount of the deficiency of the *arbitrios* of the bank to the government, that it may initiate into the legislative power, or that it may be disposed of as by law provided, and let the reverend bishop be replied to by this decree.

A copy. Mexico, Nov. 21, 1840.

S. YTURBES.

Mexico, October 8, 1852. Conformable.

(Signed) JOSÈ MARIA DURAN.

I, the first clerk of the department of relations, certify the foregoing to be the authentic signature of Señor Don José Maria Duran, first clerk of the department of justice.

(Signed) I. MIGUEL ARROYO.

[Translation.]

EXHIBIT XIII.—*Instructions and powers of Micheltoreno.*

Under date of the 11th of February, 1842, the minister of war says what follows:

MOST EXCELLENT SIR: His excellency, the president *ad interim*,
86 being desirous that the department of California should take advantage of all the resources which it possesses, for its prosperity for placing itself in a state of defence, and for acquiring that happiness which nature itself invites her to take possession of; and bearing in mind the disturbances which have taken place in the country, and which, on account of the distance, the national government has not been able to avoid; the situation in which Y. E. will be placed, and the measures which you will have to adopt, and which will produce the desired effect, if you wait for the proper time to put them into execution, for there are matters which do not admit of the least delay, and in the persuasion that Y. E. will not abuse your powers, but that you will exercise them for the welfare and the service of all the inhabitants of that interesting and fertile department which the supreme government has placed under your charge and responsibility, he (the president) has been pleased to grant to the Y. E. over and above the attributions assigned to you by the existing laws and regulations, as governor, commandant-general and inspector, all the powers which the supreme government can confer upon you, in order that by virtue thereof you may remove from office all such civil and military officers dependent on said government who shall not fulfil their duties, or act up to the confidence reposed in them by the same, and fill their situations by appointing worthy citizens who shall take their places and enter upon their duties; but with the understanding, nevertheless, you report to government the motives of your proceedings for its approbation. The views of the supreme magistrate do not only refer to Upper California but extend likewise to Lower California, where certain seditious movements have appeared, which being fomented by hidden enemies it has caused some foreigners to take part, when their very quality of foreigners prohibits them from intermeddling in domestic strife; and, as the president is resolved to protect the troops, authorities, and citizens of said peninsula, he has determined that your military command shall likewise extend to Lower California, as well as the civil command, separating it from Sinaloa; and the commandant-general of the department of Sonora and Sinaloa,
87 will continue to furnish you with the resources and assistance which you may require for the purpose of securing peace, furnishing the troops, providing for the wants of the citizens, and enabling you to provide for the prosperity and happiness of the

whole department. Although the 1st article of the law of 2d of February, 1839, derogated the articles of that of the 18th of February of the same year, which subjected the subordination of the staff of the army, and the 13th article of the first mentioned decree merely leaves the commandant general of the east and west with the former attributions of inspector which they possessed in the companies of presidios; his excelleney, the president, has determined that your powers shall extend as inspector to the permanent battalion of California, and that you take charge of all the mechanism thereof, and report to the staff of the army.

You will become acquainted with the good or bad management of the maritime custom-house of both Californias; you will have to examine the situation of all the missions, with respect to their management, improvement, and state of accounts; you will have to proceed to the inspection and reorganization of the companies of presidios, and in all cases, (were you not to act,) the evil would have to remain until government could resolve.

The supreme government, trusting in your justice and activity, desires that you should meet with no obstacles, and therefore the powers conferred upon you are made extensive to those branches, and to all others which may conduce to the welfare of the country, including many others, the administration of the post office department, colonization, the establishment of presidios, the improvement of ports, the safety of towns, the civilization of wild Indians, the education of youth, the opening of the roads, the furtherance of the arts, the protection of agriculture and commerce, the establishment of houses of correction, and the establishment of towns.

You know the views of the supreme government, and are well aware that, being a friend to improvement, it merely desires the union of Mexicans, and that the community in general may enjoy the protection of the laws, be obedient to their authorities, understand that it is our duty to procure the welfare of every one and avoid
88 that all others be injured. I therefore will not detain myself by recommending you to propagate these principles, and will merely mention, that when the supreme magistrate dictated his instructions he wished to manifest to you his esteem, and the importance of the command he has confided to you, and to assure the inhabitants of California that the present administration desires their happiness, disavows all apathy, and is ready to impart to that department all the resources which it may desire, and be able to furnish it.

I communicate this to Y. E. for your satisfaction.

God and liberty! Mexico, 11th, February, 1842.

TORNEL.

To Gen. DON MANUEL MICHELTORENA.

I certify that the foregoing copy is the same as the one that was copied from the original, when I was in charge of the governor's secretaryship.

(Signed) MAMUEL JIMENO.

MONTEREY, *July 6th*, 1850.

[Translation]

EXHIBIT XIV.—*Proclamation of Governor Micheltorena concerning missions.*

Manuel Micheltorena, general of brigade of the republic, adjutant-general of the Plana Mayor, governor of the same, commanding general and inspector of both Californias.

It being one of the ample or complete instructions or orders, with which is invested the undersigned general and governor, viz: to examine into the situation of all the missions in his government at the present moment, their prospects and resources, in order to regulate them, and the supreme national government having transmitted all its powers, according to the supreme order made February 11, 1842.

On deliberation, and with the assent of the most reverend fathers, Fray, José Joaquin Jimeno, Fray, José Ma. de Jesus Gonzalez Rubio, who have been made personally to appear before the govern-
89 ment, as presidents of other missions, as well as in the name of, and to represent the most reverend father, presidential vicar, the absent Fray, Narciso Duran, being fully impressed with and having well reflected upon all things requisite.

That the vast and immense landed property formerly belonging to the mission had been scattered or partitioned out to individuals, which, at the epoch it was done, was caused by the exigencies of the country;

That the pious and charitable institutions of social order for the conversion of the savages to Catholicism and to agricultural and peaceful life, are reduced to the huertas and enclosures of the churches and buildings;

That most reverend ecclesiastics have no support but charity, and that the divine religion not prospering, barely sustains itself;

That the Indians, naturally lazy, from additional labor, scarcity of nourishment, and a state of nudity, having no fixed employment or appointed mission, prefer to keep out of the way and die impenitent in desert woods, to escape a life of slavery, filled with all privations, and without the social joys;

That this continued emigration of the natives from the service of individuals to that of missions, and from that of the missions to that of individuals or to the woods, retards more and more agriculture, and frightens off, instead of drawing together, the Gentiles from without the pale of our holy religion;

That, in the administration of the missions, there have been committed some frauds and notorious extravagance, which every inhabitant of California laments;

That, as there is no other method of reanimating the skeleton of a giant, like the remains of the ancient missions, without falling back upon experience and fortifying it with the levers of civil and ecclesiastical power;

Now, everything well considered and naturally reflected upon, I have determined to decree the following articles:

No. 1. The government departmental decrees to be "delivered up or restored" to the most rev. fathers (who shall name the ecclesiastics to be placed respectively in charge) the missions of—

90	San Diego,	San Juan Capistrano,
	San Luis Rey,	San Gabriel,
	Jan Fernando,	San Buena Ventura,
	Santa Barbara,	Santa Cruz,
	San Antonia,	La Purisima,
	Jan Jose,	Santa Clara.

Which shall continue for the future to be governed by the most rev. fathers (they taking charge of the natives) in the same manner as they were before.

No. 2. The government considers what has been done to this date as irrevocable; the missions can reclaim none of the lands granted prior to this date; and in reclaiming the cattle, chattels, and instruments of agriculture loaned by the rev. fathers, curators, or superintendents, they shall grant sufficient time and arrange with the debtors or holders amicably.

No. 3. They shall likewise take care to collect the scattered neophytes or converts: first, those lawfully exempted by the supreme departmental government; second, those who at the date of this decree are provided for by individuals; it being, however, understood that if any of both classes wish and prefer to return to their respective missions, they shall be admitted and received, with cognizance of the masters and the most rev. missionaries.

No. 4. The departmental government, in whose possession up to this day have been the missions, in virtue of the most ample powers with which it is invested, and referring to the aforesaid considerations, authorizes the most rev. fathers to apply the products of the missions to the necessary expenditures of the reduction, food, clothing, and other temporal wants of the Indians; and they shall likewise take from the same fund their own support, for the salary of the mayordomo, and for the support of the divine religion, under the condition that they shall remain obligated by their word of honor and conscience to deliver to the treasury, upon notice to the rev. fathers of this government, and the express order in writing, of the undersigned governor, commanding general, and inspector of relief, sustenance, and clothing of the troops and observances of the civil employees, the *eighth part* of the whole annual produce of every kind, keeping
91 for the guidance of its ecclesiastics a true and exact account at the end of the year of the number of their converts, possessions, real and personal, and of every description of produce, or its corresponding value, which may belong to such mission.

No. 5. The departmental government, which glories in religion as well as the whole of California, and in the same manner being interested as well as all and every one of the inhabitants of both Californias in the advancement of the holy catholic faith and in the prosperity of the country, "dedicates itself," (or places at the disposition of "all its power,") in aid of the missions, and in quality of general

commanding the power of its arm to protect and defend and sustain them, and in the possession and preservation of all the lands they may hold from this day, they shall be the same as the possessions and guarantees enjoyed by private persons, binding itself to make no new grants without the information of the respective authorities of the most rev. ministers, notorious non-occupation, non-cultivation nor necessity.

Dated 29th day of March, 1843.

MANUEL MICHELT'NA.

FRANCISCO ARCE, *Secretary.*

[Translation.]

EXHIBIT XV.—*Act of departmental assembly.*

IN EXTRA SESSION,
August 24, 1844.

The report of the committee on landed property and war, instructed to point out the means of which the government might avail itself to defray the expenses of the war with which the country is threatened by a foreign nation—in which report are five articles in relation to the missions of Upper California, as the only available resources under existing circumstances—having been taken under consideration, the five articles named were debated *seriatim*, and unanimously approved, it being decided that the original of the
92 report referred to should be recorded among the acts of the present session, a copy thereof being given to the governor of the department for his information, to be published when he should deem proper, in order to prevent abuses in these matters.

Most excellent assembly:

The special committee appointed to report with regard to the means which are presented in the communication of the governor of the department of the 12th inst., for the subsistence of the auxiliary forces raised by him in consequence of the probability of a war between our nation and the United States of the North, states that it has considered the subject with the greatest attention, and that in weighing its reflections it has not been able to decide; but, taking into view the critical situation of the country, threatened with the loss of her rights and liberty, and looking to the exhausted condition of the national treasury and the necessity of finding out means of security and defence, the only safe course pointed out by the committee to reduce the demands upon the government for that object is to have recourse to the missions, as well because they are going to ruin, being entirely out of employment, as because they should be regarded as the property of the nation, after providing suitably for their respective neophytes. It presents for your deliberation the following articles:

1. The superior government of the department may expose to sale, hypothecate, or lease the property, chattels, and cultivated lands of the missions of Upper California, including the extent from

San Diego to Sonoma, and dispose of them to defray the expenses of the war, their respective legal debts being first paid out of the price they may bring.

2. The mission of Santa Barbara, which shall exist as an episcopal palace, its neophytes being taken care of; that of Santa Ynez, as a college of instruction in the higher branches of study for the youths of California; and whatever else the government shall reserve for the national crops necessary for the subsistence of the troops shall be excepted.

3. The government shall fix the time, manner, and form, in which the said sale, hypothecation, or leasing, is to be effected, and
93 shall order a prudent division of such of the movable property as is most useful among the neophytes, respectively, giving them lands.

4. The government shall have power to except entirely the debts which some private individuals owe to the said missions, and dispose of them for the same object as the rest, of which the first article speaks.

5. The missions, when sold, shall hold thereafter the character of villages; and those which are hypothecated or rented, if they be occupied by the government as departmental property—it being provided in the regulation which is made that what is proper—shall be set apart for its support, the emoluments of the right reverend fathers, proper public worship, and the spiritual aid of the villages.

DAVID SPENCE.
PIO PICO.
NARCISCO BOLELLO.

Monterey, Aug. 24, 1844.

[Translation.]

EXHIBIT XVI.—*Act of departmental assembly, 21st April, 1845.*

Pio Pico, senior vocal of the honorable assembly, and governor *ad interim* of the department of the Californias.

TO THE INHABITANTS: Know ye. that the excellent departmental assembly has convened and decreed the following:

1. The government, with the least delay, will demand exact information of all the persons having charge of the missions, in order that they may give it truthfully, of active and passive debts, showing the resources they have to pay the passive ones.

2. The government, from the publication of the present decree, will suspend, until a convenient time, the granting of the lands immediately contiguous to the missions, considering that some of them are indispensable, or reserved and appropriated under the class of common lands.

3. Likewise, the government will suspend hereafter the giving to the civilized Indians any free letter, until some decisive measures may be taken upon the footing on which the missions must remain.
94

4. The government will direct the information to the rev. father prefects, in order through them, that these prefects may direct to the reverend fathers in whose charge are the missions, in order that they may restrain any sale of the useful movables of the establishments under their charge; likewise such other things as are necessary to them. Let it be understood by the governor of the department that he will dispose, that it will be complied with, published, and circulated.

Hall of Sessions of the honorable assembly of California, April 21, 1845. PIO PICO, *President.*

AUGUSTIN OLVERA, *Secretary.*

In order that it may come to the notice of every person, I order that its publication and circulation in the towns under my jurisdiction, posting it in the accustomed places.

Given in the city of Los Angeles, capital of the department, on the 21st of April, 1845. PIO PICO.

JUAN BANDINI, *Secretary.*

[Translation.]

EXHIBIT XVII.—*Decree of the departmental assembly of May* 28, 1845, *respecting the renting of some of the missions, and converting others into pueblos, &c.*

Article 1. The departmental government shall call together the Indians of the missions of San Rafael, Dolores, Soledad, San Miguel, and La Purisima, which are abandoned by them, by means of a proclamation, which it will publish, allowing them the term of one month from the day of its publication in their respective missions, or in those nearest to them, for them to reunite for the purpose of occupying and cultivating them; and they are informed that, if they fail to do so, said missions will be declared to be without owners,
95 *(mostrencas,)* and the assembly and departmental government will dispose of them as may best suit the general good of the department.

Art. 2. The Carmelo, San Juan Bautista, San Juan Capistrano, and San Francisco Solano shall be considered as pueblos, which is the character they have at present; and the government, after separating a sufficient locality for the curate's house, for churches, and appurtenances, and court house, will proceed to sell the remaining premises at public auction in order to pay their respective debts; and the overplus, should there be any, shall remain for the benefit and preservation of divine worship.

Art. 3. The remainder of the missions as far as San Diego, inclusive, may be rented out at the option of the government, which will establish the manner and form of carrying this into execution, taking care in so doing that the establishments move prosperously onward. These respective Indians will consequently remain in absolute liberty to occupy themselves as they may see fit, either in the employment of

the renter himself, or in the cultivation of their own lands which the government will necessarily designate for them, or in the employ of any other private person.

Art. 4. The principal edifice of the mission of Santa Barbara is excepted from the renting mentioned in the foregoing article; and the government will arrange in the most suitable manner. which part thereof shall be destined for the habitation and other conveniences of his grace the bishop and his suite, and which for the reverend missionary padres who at present inhabit said principal edifice. And likewise one-half of its total rent of the other property of the mission shall be invested for the benefit of the church, and for the maintenance of its minister, and the other half for the benefit of its respective Indians.

Art. 5. The products of the rents, mentioned in article 3, shall be divided into three parts, and the government shall destine one of them for the maintenance of the reverend padre minister, and the conservation of divine worship; another for the Indians; and the last shall necessarily be dedicated by government towards education and public beneficence. as soon as the legal debts of each mission be paid.

96 Art. 6. The third part mentioned in the 5th article as destined for the maintenance of the priests and help towards divine worship, shall be placed at the disposal of the reverend prelates, for them to form a general fund, to be distributed equitably in the before-mentioned objects.

Art. 7. The authorities or ecclesiastical ministers, should there be any in the missions referred to in article 1, or those in the nearest missions, or persons who may merit the confidence of government, will be requested by said government to see that the proclamation above-mentioned be published, and to give information immediately whether the said neophytes have presented themselves or not, within the period fixed, in order that, in view of such documents, the necessary measures may be taken.

Art. 8. Government will, in the strictest manner, exact the amount owing by various persons to all the missions in general, as already ordered by the most excellent assembly, in its decree of the 24th August, 1844, and dispose of the same for the object mentioned in the last part of the 5th article.

[Translation.]

EXHIBIT XVIII.—*Act of departmental assembly, 28th Oct.*, 1845.

Of alienation.

Article 1. There will be sold in this capital, to the highest bidder, the missions of San Rafael, Dolores, Soledad, San Miguel, and La Purisima, which are abandoned by their neophytes.

Art. 2. Of the existing premises of the pueblos of San Luis Obispo, Carmelo, San Juan Bautista, and San Juan Capistrano, and which formerly belonged to the missions, there shall be separated the churches

and appurtenances; one part for the curate's house, another for a court-house, and a place for a school, and the remainder of said edifice shall be sold at public auction, where an account of them will be given.

97 Art. 3. In the same manner will be sold the property on hand belonging to the missions—such as grain, produce, or mercantile goods—giving the preference for the same amount to the renters, and deducting previously that part of said property destined for the food and clothing of the reverend padre minister and the neophytes until the harvest of next year.

Art. 4. The public sale of the missions of San Luis Obispo, Purisima, and San Juan Capistrano shall take place on the first four days of the month of December next, notice being previously posted up in the towns of the department inviting bidders, and three publications being made in the capital at intervals of eight days one from the other before the sale. In the same manner will be sold what belongs to San Rafael, Dolores, San Juan Bautista, Carmelo, and San Miguel on the 23d and 24th of January, next year.

Art. 5. From the date of the publication of these regulations, proposals will be admitted in this capital to be made to government, which will take them into consideration.

Art. 6. The total proceeds of these sales shall be paid into the departmental treasury, to pay therewith the debts of said missions; and should anything remain, it will be placed at the disposal of the respective prelate for the maintenance of religious worship, agreeably to article 2 of the decree of the departmental assembly.

Of renting.

Art. 7. The missions of San Fernando, San Buenaventura, Santa Barbara, and Santa Ynez, shall be rented out to the highest bidder for the term of nine years.

Art. 8. To this end bidders shall be convoked in all the departments, by fixing advertisements in the town, in order that by the 5th December next they may appear in this capital, either personally or by their legal agents.

Art. 9. Three publications shall be made in this capital, at intervals of eight days each, before the day appointed for the renting, and proposals will be admitted on the terms expressed in article 5.

Art. 10. There shall be included in said renting all the lands, out-
98 door property, implements of agriculture, vineyards, orchards, workshops, and whatever according to the inventories made, belongs to the respective missions, with the mere exception of those small portions of land which have always been occupied by some of the Indians of the missions.

Art. 11. The buildings are likewise included, excepting the churches and their appurtenances, the part destined for the curate's house, the court-house, and place for a school. In the mission of Santa Barbara no part of the principal edifice shall be included which is destined for the habitation of his grace the bishop and suit, and

the reverend padres who inhabit it; and there shall be merely placed at the disposal of the renter, the cellars, movables and workshops, which are not applied to the service of said prelates.

Art. 12. As the proceeds of the rent are to be divided into three parts, to be distributed according to article 5 of said decree, the renter may himself deliver to the respective padre, prefect, or to the person whom he may appoint, the third part destined for the maintenance of the minister and the religious worship; and only in the mission of Santa Barbara, the half of said rent money shall be paid for the same object, in conformity with the 4th article of the decree of the departmental assembly.

Art. 13. The government reserves to itself the right of taking care that the establishments prosper; in virtue of which it will prevent their destruction, ruin, or decline, should it be necessary, during the period of renting.

Art. 14. The renting of the missions of San Diego, San Luis Rey, San Gabriel, San Antonio, Santa Clara, and San José shall take place when the difficulties shall be got over which at present exist with respect to the debts of those establishments, and then the government will inform the public; and all shall be done agreeably to these regulations.

Advantages and obligations of the renters.

Art. 15. The renters shall have the benefit of the usufruct of everything delivered to them on rent according to these regulations.

Art. 16. The obligations of the renters are: 1st. To pay promptly and quarterly when due the amount of rent. 2d. To deliver back, with improvements, at the expiration of the nine years, whatever they may receive on rent, with the exception of the stills, movables, and implements of agriculture, which must be returned in a serviceable state. 3d. They shall return at the same time the number of cattle which they receive, and of the same description, and of such an age as not to embarrass the procreation of the following year. 4th. They shall give bonds to the satisfaction of government before they receive the establishments, conditioned for the fulfilment of the obligations of the renters, one of which is the payment of the damages which the government may be obliged to find against them, agreeably to article 13.

99

Of the Indians.

Art. 17. The Indians are free from their neophytism, and may establish themselves in their missions, or wherever they choose. They are not obliged to serve the renters, but they may engage themselves to them, on being paid for their labor, and they will be subject to the authorities and to the local police.

Art. 18. The Indians radicated in each mission shall appoint from among themselves, on the first of January in each year, four overseers, who will watch and take care of the preservation of public

order, and be subject to the justice of the peace to be named by government in each mission, agreeably to the decree of 4th July last. If the overseers do not perform their duty well they shall be replaced by others, to be appointed by the justice of the peace, with previous permission from government, who will remain in office for the remainder of the year in which they were appointed.

Art. 19. The overseers shall appoint every month, from among the best of the Indians, a sacristan, a cook, a tortilla-maker, a vaquero, and two washerwomen, for the service of the padre minister, and no one shall be hindered from remaining in this service as long as he choose. In the mission of Santa Barbara, the overseers will appoint an Indian, to the satisfaction of the priest, to take care daily of the reservoir and water conduits that lead to the principal edifice, and he shall receive a compensation of four dollars per month out of the rent belonging to the Indians.

100 Art. 10. The Indians who possess portions of land in which they have their gardens and houses, will apply to this government for the respective title, in order that the ownership thereof may be adjudicated to them, it being understood that they cannot alienate said lands, but they shall be hereditary among their relatives, according to the order established by the laws.

Art. 21. From the said Indian population three boys shall be chosen as pages for the priest, and to assist in the ceremonies of the church.

Art. 22. The musicians and singers who may establish themselves in the missions shall be exempt from the burdens mentioned in article 18, but they shall lend their services in the churches, at the masses, and the *funciones* which may occur.

Of the justices of the peace.

Art. 23. The justices of the peace shall put in execution the orders communicated to them by the nearest superior authority; they will take care that veneration and respect be paid to matters appertaining to our religion and its ministers, and that the 18th and 20th articles, inclusive of these regulations, be punctually fulfilled; they will see that no one be hindered in the free use of his property; they will quiet the little disturbances that may occur, and, if necessary, impose light and moderate correction; and if the occurrence should be of such a nature as to belong to the cognizance of other authorities, they will remit to such authorities the criminals and antecedents.

[Translation.]

EXHIBIT XIX.—*Act of the departmental assembly of the 30th of March 1846, respecting missions.*

Article 1. The government is authorized to carry into effect the object of the decree of the 28th of May last, published by this honorable assembly, respecting missions; to which end, seeing the

101 impracticability of renting, mentioned in article 3 of said decree the departmental government will act in the manner which

may appear most conducive to obviate the total ruin of the missions of of San Gabriel, San Luis Rey, San Diego, and the remainder which are in similar circumstances.

Art. 2. As most of these establishments are owning large amounts, if the property on hand should not be sufficient to satisfy their acknowledged debts, attention shall be had to what the laws determine respecting bankruptcies, and steps shall be taken accordingly.

Art. 3. Should government, by virtue of this authority, find that in order to prevent the total ruin which threatens said missions, it will be necessary to sell them to private persons; this shall be done at public auction, the customary notice being previously given.

Art. 4. In case of sale if, after the debts be paid, and surplus should remain, this shall be divided among the Indians of the premises sold, government taking care to make the most just distribution possible.

Art. 5. In any case care must be taken to secure a sufficient amount for the maintenance of the padres and the expenses of public worship, the government being at liberty to separate a part of the whole establishments, whether in lands for cultivation, landed or other property, at its discretion, which will be sufficient to secure both objects, the respective priest being previously heard and attended to.

Art. 6. The premises set apart according to the foregoing article, shall be delivered as a sale at perpetual interest of four per cent.; and the proceeds shall be applied precisely to the objects mentioned in said article 5.

Art. 7. What has hitherto been done agreeably to what was ordained in the decree of the honorable assembly of 28th May before cited, remains in full force; and these presents shall in no manner alter the contracts made and measures taken by government in accordance with said decree of May, 1845; nor shall they in future put any obstacle in the way of what may be done in accordance thereto.

Art. 8. The government will remove any obstacles not foreseen in this decree; and in six months, at furthest, will notify this honorable assembly of the result of its fulfilment.

102 [Translation.]

EXHIBIT XX.—*Act of the departmental assembly of the* 31*st October*, 1846, *annulling the sale of missions and other acts of Don Pio Pico.*

The citizen José Maria Flores, captain of cavalry in the Mexican army, governor and commandant-general *ad interim* of this department to its inhabitants.

Know ye, that the honorable departmental assembly in an extraordinary session of yesterday has decreed the following:

The most excellent departmental assembly, taking into consideration the urgent necessity of providing resources for carrying on the war against the invading forces of the United States of North

America, and finding that the only way of obtaining them in a sure and prompt manner is to solicit a loan, has, in this day's session, found it expedient to decree the following, viz.:

1. The sales of missions made by Don Pio Pico, as governor, as well as all other acts done by him on the same subject, beyond his authority, are entirely annulled.

2. His excellency, the governor *ad interim*, is authorized to solicit a loan of such amount as he may consider necessary for the object indicated, it being stipulated that, in accomplishing this act in the most equitable and just manner, he may mortgage one or more of the missions for the corresponding security.

3. These establishments shall continue with the character of being rented and in possession of the renters who shall have fulfilled the conditions stipulated in the proclamation upon that subject.

4. The missions which exist under the circumstances of the preceding article shall suffer no alteration until the term of their lease shall expire, even should they be of those mortgaged; and, with respect to the others, the government will take care that the regulations formerly given on the subject be duly complied with.

103 His excellency, the governor *ad interim*, will be acquainted herewith, for his government and further ends.

Hall of Sessions of the honorable assembly of California, in the city of Los Angeles, October 30, 1846.

FRANCISCO FIGUEROA, *President.*
AUGUSTIN OLVERA, *Deputy sec'y.*
JOSE MARIA FLORES.

[Original.]

EXHIBIT XXI.

MINISTERIO DE INDUSTRIA E INSTRUCCION PUBLICA.

E. S.: Ha llegado à noticia del E. S. Presi'te que el Gobierno de ese Departam'to ha dispuesto sacar à pública subasta todos los bienes pertenecientes à las misiones del Mismo, que el antecesor de V. E. habia mandado devolver à los repectivos Misioneros para el manejo y Administracion de sus temporalidades; en consequencia, se ha servido prevenirme que ese Gobierno se sirva informar sobre estos particulares, suspendiendo desde luego todo procedim'to en cuanto à enagenacion de los bienes de que se trata, hasta la resolucion del Supremo Gobierno.

Tengo el honor de darle a V. E. con los fines indicados, protestandole mi consideracion y aprecio.

Dios y Libertad. Mexico, Noviembre 14, de 1845.

MONTESDEOCA.

E. S. Gobernador del Dep'to de Californias, Puerto de Monterey.

[Translation.]

EXHIBIT XXI.

MINISTRY OF INDUSTRY AND PUBLIC INSTRUCTION.

MOST EXCELLENT SIR: His excellency, the president, has received information that the government of that department has ordered
104 that the property belonging to the missions thereof be put up for sale at public auction, which Y. E.'s predecessor had ordered to be returned to the respective missionaries for the direction and administration of their temporalities; therefore, he has deemed proper for me to say that the said government will please to report upon these particulars, suspending immediately all proceedings respecting the alienation of the aforesaid property till the determination of the supreme government.

I have the honor to communicate it to your excellency for the purposes indicated, protesting to you my consideration and esteem.

God and liberty. Mexico, Nov. 14, 1845.

(Signed) MONTESDEOCA.

To his excellency, the governor of the department of the Californias, port of Monterey.

[Original.]

EXHIBIT XXII.

Pio Pico, Gobernador Constitucional del Departam'to de Californias:

A sus habitantes, sabed: que por el Ministerio de Relaciones Exteriores Gobernacion, y Policia, se me ha dirijido el decreto que sigue:

"MINISTERIO DE RELACIONES EXTERIORES, GOBERNACION, Y POLICIA.

R. y. P. el dia 19 y R. á los Juzgados 1o. y 2o.

El Ex'mo S'r Presidente interino de la Republica, se ha servido dirigirme el decreto que sigue:

'*Mariano Paredes y Arrillaga, General de Division y Presidente interino de la Republica Mexicana:*

A los habitantes de ella, sabed—Que considerando que por el estado en que se encuentra la Patria amagada de una guerra extrangera, é invadida una grande y preciosa parte de su territorio, es llegado el casco de obrar con la mayor actividad y energia para repeler la mas injusta de las agresiones, recuperar el territorio usurpado, y
105 conservar el lustre y decoro de la Nacion; y teniendo presente que para lograr tan grandiosos objetos, es de absoluta necesidad afianzar el órden y la paz interior; usando de las facultades que me concede la cuarta de las adiciones hechas en esta Capital en 2 de Enero del presente Año al plan proclamado en S. Luis Potosí, he tenido á bien decretar lo siguente:

Art. 1o. El Gobierno nombrará los Gobernadores de los Departamentos sin sujetarse á propuesta de las Asambleas, por hallarse la

nacion en las circunstancias extraordinarias de que habla el final de la facultad 17ª. del Art. 134 de las Bases orgánicas.

2o. En los Departamentos en donde por oposicion al actual órden de cosas se hallen disueltas las Asembleas, los Gobernadores respectivos nombrarán con aprobacion del Supremo Gobierno las personas que estimen à propósito para formarlas, por no ser justo ni conveniente que los Departamentos carezcan de los importantes servicios que deben prestarles esas corporaciones.

3o. Con igual objecto se faculta à los Gobernadores para organizar los Ayuntamientos en los puntos donde estuvieren disueltos.

4o. Se recuerda à los Gobernadores de los Departamentos, para su puntual observancia, la circular de 24 Diciembre del año próximo pasado, en que se les transmitió la ampliacion de facultades concedidas al Ejecutivo por el decreto del Congreso, fecha 21 del mismo, conforme al Art. 198 de las Bases Orgànicas.

5o. Se faculta à los Gobernadores de los Departamentos, para que en casos extraordinarios obren espediamente, y con la debida justificacion, para salvar los grandes intereses de la independencia é integridad del territorio nacional, y para asegurar la tranquilidad y el órden publico, sin los cusales no pueden sostenerse aquellos inestimables bienes.

Por tanto, mando se imprima, publique, circule y se le dé el debido cumplimiento.

Palacio Nacional de Mexico, 13 de Marzo de 1846.

MARIANO PAREDES Y ARRILLAGA.

A. D. JOAQUIN MARIA Y CASTILLO Y LANZAS.'

106 Y lo comunico à V. para su inteligencia y fines consiguientes. Dios y Libertad. Mexico, 13 de Marzo de 1846.

CASTILLO LANZAS.

E. S'R GOBERNADOR DEL DEP'TO DE CALIFORNIAS."

Y para que llegue à noticia de todos, mando se publique por bando, en todos los Pueblos del Departamento, se circule à quienes corresponda, y se fije en los parages públicos acostumbrados.

Dado en el Puerto de Sta. Barbara, á 4 de Julio de 1846.

PIO PICO.

JOSE MATIAS MARENO, *Srio.*

[Translation.]

EXHIBIT XXII.

Pio Pico, constitutional governor of the department of the Californias:

To the inhabitants thereof: Know ye, that the following decree has been directed to me by the minister of foreign relations, government, and police:

"MINISTRY OF FOREIGN RELATIONS, GOVERNMENT, AND POLICE.

Received and published on the 19th of the month and transmitted to the 1st and 2d judicatures.

His excellency, the president *ad interim* of the republic, has been pleased to direct me the following decree:

'*Mariano Paredes y Arillaga, general of division and president ad interim of the Mexican Republic:*

To the inhabitants thereof. Know ye:

That, on account of the actual state of the country, threatened with a foreign war, and a large and important part of its territory invaded, considering that the time has arrived to act with *of* the greatest activity and energy, to repel the most unjust aggressions, to recover the usurped territory, and to preserve the glory and honor of the nation; and convinced that, for the accomplishment of objects so grand, it is necessary to secure order and peace within; in the exercise of the powers vested in me by the 4th of the additions
107 made in this capital on the 2d of January of the present year to the plan proclaimed in San Luis Potosi, I have thought proper to decree the following:

1st. The government shall appoint the governors of the departments, irrespective of those proposed by the assemblies, in consequence of the nation being placed in the extraordinary circumstances to which the last clause of the 17th power of the 134th article of the organic law refers.

2d. In those departments where, in consequence of opposition to the present state of things, the assemblies are dissolved, the respective governors, with the approval of the supreme government, shall appoint such persons as they may deem competent to compose them, it not being just or convenient that the department suffer the want of the important services which those bodies should render them.

3d. For a similar purpose the governors are authorized to organize the ayuntamientos wherever they may have been dissolved.

4th. The attention of the governors of the departments is called to the circular of the 24th December of last year past for the punctual observance thereof, wherein is conferred upon them the extension of the powers granted to the executive by the decree of Congress, dated the 21st of the same month, in conformity with the 198th article of the organic law.

5th. The governors of the departments are authorized to act expeditiously in extraordinary cases, and with due justification to preserve the great interests of the independence and the integrity of the national domain, and to secure tranquillity and public order, without which these inestimable blessings cannot be sustained.

Therefore, I command that it be printed, published, circulated, and that the due obedience thereunto be rendered.

National Palace, Mexico, March 13th, 1846.

(Signed) MARIANO PAREDES Y ARRILAGA.

To Don JOAQUIN MARIA CASTILLO Y LANZAS.

And I communicate the same to you for your information and consequent purposes. God and liberty.

(Signed) CASTILLO LANZAS.

To his excellency the GOVERNOR OF THE CALIFORNIAS.

108 And in order that it may come to the notice of all, I order it to be published by proclamation in all the pueblos of the department, that it be circulated to those to whom it belongs, and that it be posted up in the usual public places.

Given at the port of Santa Barbara, July 4, 1846.

(Signed) PIO PICO.

(Signed) JOSE MATIAS MORENA, *Secretary.*

[Original.]

EXHIBIT XXIII.

SESION DEL DIA 30 *de Marzo de* 1846.

Aprobada la acta del dia 23 de Marzo, se le dió lectura al dictamen de la comision de Misiones haciendo algunas observaciones, en su parte expositivas, relativas al proyecto de decreto presentado por el Señor Bandini en la sesion anterior que trata de Misiones concluyendo la comision con la peticion siguiente: Pide que se ponga á discusion el proyecto del Señor Bandini en los mismos terminos que está concebido, protestando el presidente de dicha comision, que no puede dar su voto en favor por no ser conforme con su modo de pensar, y pedido por el Señor Figueroa se le dispense la segunda lecturo, admitido; y entendido el voto particular del Señor Argüello que dice; no conveniendome con el segundo párrafo de la parte expositiva sujeto mi voto particular á la discusion, á lá que se puso la proposicion mencionada del Señor Bandini la cual concluye con los articulos siguientes.

1o. Se autoriza al Gobierno para que haga efectivo el objeto del decreto de 28 de Mayo del año po. po. expedido por esta Honorable Asamblea relativo á Misiones: y á cuyo fin en lo impracticable del arriendo prevenido en el arto. 3o. de dicho decreto, el Gobierno del Departamento obrará del modo que crea ser mas conveniente para evitar la ruina total de las Misiones de San Gabriel, San Luis Rey, San Diego y las demas que se halan en iguales circunstancias. Sin discusion fue aprobado.

2o. Como los demas de dichos establecimientos tienen grandes creditos en su contra, si sus existencias no fuesen suficientes á cubrir sus deudas calificadas, se tendra, presente lo que dis-
109 ponen las leyes con respecto á quiebras y se procederá conforme á ellas. Sin discusion fue aprobado.

3o. Si de la autorizacion del Gobierno resultare que este, para evitar la total destruccion á que caminan las dichas misiones, determinase la venta de ellas á particulares, te verificará á remate publico precediendo los avisos acostumbrados. Sin discusion fue aprobado.

4o. En el caso de venta, despues de satisfechas las deudas, si hubiese sobrante, se repartirà, á los indios de la comunidad de la finca vendida, valiendose el Gobierno del modo que sea mas compatible á la justa distribucion. Sin discusion quidó aprobado.

5o. En todo caso siempre se tendrá presente asegurar lo necesario á la subsistencia de los padres ministros, y gastos para la conservacion del culto divino, pudiendo el gobierno determinar una parte del total

fincas, ya consista en tierras de labor, bienes raices, u otras que á juicio del gobierno, oyendo y atendiendo à los religiosos respectivos, aseguren ambos objectos. Sin discusion fue aprobado.

6o. Las fincas que se determinen conforme al precedente arto. seran entregadas. como en venta à censo perpetuo, al cuatro por ciento. Este producto previamente serà aplicable a lo que previene el mismo articulo 5o. Sin discusion fue aprobadà.

7o. Queda en todo su valor y fuerza lo practicado hasta ahora, segun lo dispuso el decreto de la honorable assemblea de 28 de Mayo citado, y el presente en nada alterarà los contratos y disposiciones tomados por el gobierno con arreglo al propio decreto de Mayo 1845, ni para lo sucesivo impedirá lo que se pueda practicar conforme à él. Sin discusion fue aprobado.

8o. El gobierno salvarà los inconvenientes que no se hayan podido prever, por el presente decreto; y à lo mas dentro de seis meses mientras dure su ejecucion, darà cuenta à esta honorable assemblea de los resultados en su cumplimiento. Sin discusion fue aprobado.

Y no habiendo otra cosa de que ocuparse por hoy, se levantó la sesion, à que no asistieron los Señores Abrego, por hallarse infermo; Botello, por tenor licencia; y Noriega ausente en comision del gobierno departamental. Entre renglones "dure" vale.

PIO PICO,
Presdte.

AUGUSTIN OLVERA, *S'rio.*

[Translation.]

110

EXHIBIT XXIII.

SESSION OF 30*th of March*, 1846.

The record of 23d of March having been approved, the report of the committee on missions was read. They made several remarks in connection therewith, touching the plan of a decree presented by Señor Bandini in the preceding session in regard to the missions, and concluded with the motion that the plan presented by said Bandini be fully discussed on the basis in which it was presented. The chairman of said committee, protesting that he cannot vote for it, as it does not meet his views. It was then moved, by Señor Figueroa, that the second reading of the aforementioned report of said committee on missions be dispensed with; which was approved. Señor Arguello then said that, not agreeing with the matters expressed in the second paragraph of the report, he gave notice that his vote would be withheld until after discussion of the whole subject, and thereupon moved that the proposition mentioned by Señor Bandini, which concluded with the following articles, be so discussed:

1st. The executive of this department is hereby authorized to carry into effect the objects of the decree of 28th of May of last year, passed by this honorable assembly, relating to missions—that, where it is impracticable to rent them, as provided in article 3 of said last mentioned decree, said executive shall proceed in what it believed to be the most efficient manner to obviate the total ruin of the missions of San Gabriel, San Luis Rey, and San Diego, as well as all others that were in the same situation. Approved without discussion.

2d. As the other remaining establishments are largely indebted, if the present amount of property belonging to the same should be insufficient to liquidate all the qualified debts thereof. then proceedings shall be had in conformity with law concerning insolvents. Approved without discussion.

111 3d. If, by the authority hereby conferred, the governor, in order to prevent the total destruction to which said missions are tending, should determine to sell them to private individuals, it shall be done at public auction, giving the usual notice thereof. Without discussion, approved.

4th. In case of sale, after the debts have been satisfied, should there be any surplus remaining therefrom, it shall be divided among the Indians of the establishments so sold, the executive having the right to prescribe the manner in which the distribution shall be made, most compatible with justice. Approved without discussion.

5th. In all cases, it shall be necessary to secure the subsistence of the reverend fathers and the expenses of divine worship, for which the executive shall be empowered to set apart a portion from the property for that purpose, either in arable lands, other real estate, or property of any other kind, which in his opinion, after hearing and consulting with the respective priests, may best secure both objects. Approved without discussion.

6th. The establishments that may be disposed of agreeably to the preceding article shall be delivered as sold, subject to a perpetual contribution of four per cent. This income shall be preferably applicable to the uses referred to in the same article 5th. Approved without discussion.

7th. Whatever has been done up to this time remains in full force and vigor, as rovided by the decree of the honorable assembly of the 28th of May aforesaid, and the present decree shall in no manner alter any contracts or arrangements made by the executive in conformity with said decree of 28 May, 1845, nor shall it hereafter prevent in any manner anything that may be done in conformity thereto. Without discussion, approved.

8th. The executive will reserve the right to obviate all inconveniences that may arise within the present decree which cannot now be foreseen, and within six months after sales he shall report to this honorable assembly the results touching this decree. Without discussion, approved.

There being no other matter to occupy the honorable assembly this day, it thereupon adjourned. There being absent Señor
112 Abrego, for sickness, Señor Botello, excused, and Señor Noriega, absent on business of the government.

PIO PICO, *President.*

AGUSTIN OLVERA, *Secretary.*

[Original.]

EXHIBIT XXIV.

SESION DEL DIA 8 *de Abril*, 1846.

Aprobada la acta del dia —— se dió cuenta con una comunicacion oficial del Señor Vocal, Don José Abrego, como contestacion á la que

con fecha, 6 de Mzo., se le pasó por la corporacion, á cuya contestacion accompaña un certificado de dos facultativos, por el que acredita hallarse enfermo de una relajacion, y le impide montar à caballo, y de consiguiente separarse del punto donde reside por tener que ponerse en cura. La Exma. Asamblea q consideró por justa la imposibilidad del Señor Abrego para el desempeño de las obligaciones que la ley le impone como diputado, acordó en consecuencia que por tales razones quedaba exonerado de la concurrencia à las sesiones, y con tal motivo entrase à cubrir la falta el primer suplente.

En seguida se dio cuenta——

[Translation.]

EXHIBIT XXIV.

SESSION OF 8*th of April*, 1846.

Approved the record of —— day of ——. Noted the official communication of Señor Abrego, a member of this hon. body, in answer to one sent from the same, under date of March 6th, which is accompanied with the certificates of two competent persons, wherein he states that he is unwell, so much so as to be unable to mount a horse, and in consequence of such sickness was obliged to be removed from his residence to another locality, for the purpose of being
113 cured. The excellent assembly justly considered the impossibility of Señor Abrego to fulfil the obligations imposed on him by law as a deputy, and agree that in consequence of and for reason of the same he should be excused from attending the sessions thereof, and that his place be filled in the meantime by the first alternate, which was referred for after action.

Afterwards was taken up for consideration——

[Original.]

EXHIBIT XXV.

SESION DEL DIA, 15 *de April, de* 1846.

Leida y aprobada la acta del dia 30 de Marzo po. po., se dio cuenta con el nombramiento que, para Gobernador Constitucional de este Departamento, hizo el Exmo. Sor. Presidente de la Republica, en la persona del Exmo. Sor. Don Pio Pico à virtud de la propuesta que elevó la corporacion en 27 de Junio anterior. Quedó impuesto el Honorable Cuerpo de la Suprema determinacion, y à consecuencia de haber manifestado El Exmo. Sor. que preside hallarse apto para prestar el juramento de la ley, y que por tanto se le señalase el dia que le habia de hacer, hubo lugar à una detenida discusion con motivo de que no habia numero suficiente de individuos en la Asamblea ante quien debe verificarse tal acto, y resultó por conclusion, considerando ser urgente el asunto, que se admitiese la siguiente proposicion que hizo el Sor. Bandini:

"Mientras se cumple el termino de las licencias que se les ha concedido por este Honorable Cuerpo à dos de sus vocales, le llamarà al

suplente que esté mas inmediato à esta Capital, siempre para que haya numero competente."

Puesto à discusion y estandolo suficientemente, se aprob à unanimidad.

Se dio cuenta igualmente con lo siguiente, una comunicacion oficial del Ministerio de Relaciones, fecha 14 de Noviembre ultimo, dirigida al Gobierno Departamental en la que por disposicion superior, se le pide informe sobre lo que haya determinado con respecto à
114 Misiones, que se sabe han sido puestos à publica subasta los bienes de ellas que se habian entregado à los Padres para el manejo de temporalidades, y que entre tanto se dé dicho informe, se suspenda todo procedimiento en cuanto à enagenacion de los bienes referidos.

Se acordó por la corporacion que siendo esta nota directa al Gobierno del Departamento, se le devolviese para que manifestàra su sentir y entonces pudiera atenderse el asunto.

Con el Soberano decreto de sies de Agosto que señala la asignacion de rentas à los departamentos. Enterado.

Con una circular de Ministro de Relaciones, fecha 21 de Octubre pasado, relativa à que se organize la fuerza de policià que debe haber en cada poblacion, y està determinada por las bases organicas, teniendo la Asamblea facultad por el articulo 134, en su parte 19a. de decretar la que debe haber en el Departamento y reglamentar su servicio conforme à la parte citada. Se mando pasar à la comision de Policia.

Con un oficio de la Comandancia-General de este departamento, fechado en Monterey, à 17 de Marzo, en el que se adjunta una proclama à que se dio igualmente lectura, dirigida à los habitantes à consecuencia de los acontecimientos habidos por los puntos del norte con el Capitan de los Estados Unidos, Don J. C. Fremont. conteniendo dicho oficio un pàrrafo por el cual se advierte que la Comandancia-General previene que no habiendo pasado el Exmo. Sor. Gobernador à hacer la vista à aquellos lugares como ha solicitado para que à ella se hubiera unido à fin de operar, va à proceder conforme à las ordenes supremas que tiene à la vista, para impedir las miras de los aventureros que se introducen por aquella frontera. Enterada la corporacion, usó de la palabra el Sor. Bandini, y pronunció un discurso por el cual repugnaba los procedimientos del Sor. Comandante-General, poniendo en claro el uso abusivo que hace de su autoridad esta persona, sin miramiento alguno ni atencion al respecto obligatorio que le imponen las leyes, y concluyó proponiendo que el Gobierno le conteste, con decoro al mismo tiempo que con la arrocancia y energia que demanda un hecho tan escandaloso como el que se ha consumado. Y no habiendo otro asunto mas que tratar, se levantó la sesion.

PIO PICO, *Presidente.*

AUGUSTIN OLVERA, *Secretario.*

115 [Translation.]

Exhibit XXV.

Session of 15*th of April*, 1846.

Read and approved the record of March 30th, last past.

The subject of the appointment of constitutional governor of this department by his excellency, the president of the republic, conferred on his excellency, Don Pio Pico, approving the action of this body which elevated him to that station, on the 27th of June last, was taken up for consideration. The supreme determination now being known to this honorable body, and his excellency presiding having given notice that he is ready to take the oath of office, and having appointed the day for so doing, a long discussion took place in consequence of there not being a sufficient number of members in the assembly before whom such an action has to be verified, and considering the urgency of the case, the following proposition was submitted by Señor Bandini:

"That until the termination of the leave of absence granted by this honorable body to two of its members, the nearest alternates to this capital shall be summoned, to make the number complete;" which being fully discussed and sufficiently understood, was unanimously approved.

The official communication of the minister of relations, under date of November 14th, last past, directed to the executive of this department, was acted upon, in which the minister asks for information, concerning what had been determined or done in respect to the missions; that information had been received that the property belonging to them, which had been delivered to the priests for the management of their temporalities, had been put up at public auction and sold, and that until such information as asked for could be given, to suspend all proceedings relating to the alienation of the aforesaid property. Whereupon it was considered that its being a note addressed directly to the executive of this department, that before any action be had upon it by this body, it be referred back to him for an expression of his opinion thereon.

The sovereign decree of the 6th of August, determining the
116 distribution of the public revenue among the departments was also taken up; duly considered, and filed.

A circular from the minister of relations was next considered, under date of October 21st, last past, relative to the organization of a police force in every village of the departments, as required by the organic bases; the assembly deriving authority from clause 19, art. 134, to determine by law how large a force is necessary for the department and to regulate its duties agreeably to said clause. Referred to committee on police.

The reading an official despatch from the commandancy-general of this department, dated at Monterey, March 17th, to which was subjoined a proclamation, also read, addressed to the inhabitants, setting forth what had taken place at the north with Capt. J. C. Frémont, of

the United States. Said despatch also contained a paragraph stating that as his excellency, the governor, had not visited the principal points at the north, as solicited by the commandant-general for the purpose of co-operating together, that he will proceed in conformity with general orders at hand and frustrate the views of those adventurers that enter the country by that frontier; which, having been heard by this body, Señor Bandini delivered a speech condemning the proceeding of the commandant-general, showing clearly the abusive manner in which he had made use of his authority, being without any regard or attention to the obligations the laws impose upon him, and recommended the executive should answer him respectfully, but with the dignity and energy which so scandalous an act as he had committed demanded. And there being nothing else before the session, it there fore adjourned.

PIO PICO, *President.*

AGUSTIN OLVERA, *Secretary.*

[Original.]

EXHIBIT XXVI.—*Mission de San Juan Capistrano.*

El dia cuatro de Diciembre de 1845, el Gobierno puso en venta publica y al mejor postor, la parte del edificio principal de la
117 Mision de San Juan Capistrano que resulta sobrante despues de la separacion de Yglesia, casa cural, consistorial, de escuela y carcel, asi como de tres huertas de arboles frutales, y viña, y de los muebles de la pertenencia de dicha Mision, con excepcion de lo perteneciente al templo, y resultaron compradores los Señores D'n Juan Forster y Don Santiago Mackinley, mediante la cantidad de Setecientos diez pesos que pagaràn el 10 de Agosto de 1846, al Gobierno Departamental y à los acreedores à la expresada Mision que este les señale.

En 6 de Diciembre se les libr el titulo de propiedad.

Pio Pico, Local Decano de la Asemblea Departamental y Gobernador Provisional de las Californias :

{ Gobierno del Dep'to [EAGLE.] De Californias. }

En virtud de haberse celebrado, el dia cuatro del corriente mes en esta capital, en publica subasta y al mejor postor, la venta de la parte del edificio principal de la Mision de San Juan Capistrano que resulta sobrante despues de la separacion de Yglesia, casa cural, consistorial, de escuela y carcel, asi como de las tres huertas de arboles frutales y viña, y de los muebles de la pertenencia de dicha Mision con excepcion de lo perteneciente al templo, resultaron compradores de todo lo mencionado los Señores Dn. Juan Forster y Dn. Santiago Mackinley, por haber sido los últimos y mejores postores en la oferta que hicieron de setecientos diez pesos.

En consecuencia y en uso de las facultades que me confirió la Exma. Asamblea Departamental en su acuerdo relativo de 4 de Julio del pre-

sente año, y de conformidad con el reglamento de 28 de Octubre último pasado, declaro por las presentes letras que los mencionados Dn. Juan Forster y Dn. Santiago Mackinley son dueños legalmente de la parte del edificio, de las tres huertas y muebles de la Mision de San Juan Capistrano que les fueron vendidos, mediante la cantidad de setecientos diez pesos, que pagaràn en moneda corriente ó en cueros y sebos á precio de plata, el diez de Agosto del año mil ocho cientos cuaranta y seis, al Gobierno Departamental ó à los acreedo res à la ex-
118 presada Mision que le sean designados por este, pudiendo desde ahora, y en virtud de este despacho, tomor la posesion judicial de la finca, huertas, y muebles mencionados, que les darà el Juez respectivo.

Por tanto mando que teniendose el presente por titulo firme y valedero, se toma razon de él en el libro de asientos sobre adjudicacion de terrenos, y se entregue à los interesados para so resguardo y demas fines.

Dado en la ciudad de Los Angeles, en este papel comun por falta del sellado, á seis de Diciembre de mil ochocientos cuarenta y cinco.

PIO PICO.

JOSE MA. COVARRUBIAS, *S'rio.*

Queda tomada razon de este titulo en el libro respectivo.

COVARRUBIAS.

[Translation.]

EXHIBIT XXVI.—*Mission of San Juan Capistrano.*

On the fourth day of December, 1845, the government put up at public sale, and to the highest bidder, that part of the principal building of the mission of San Juan Capistrano which remains after the separation of the church, the rectory, town house, school-house, and prison; as also three orchards of fruit trees and vines, and the movable goods belonging to said mission, excepting what belongs to the temple; and the purchasers proved to be Messrs. Juan Forster and Santiago Mackinley, by means of the consideration of seven hundred and ten dollars, which they are to pay on the 10th of August, 1846, to the departmental government or to the creditors of said mission, which the latter may designate to them.

On the 6th of December of the same year there was issued to them a title of ownership.

119 Pio Pico, senior member of the departmental assembly and provisional governor of the Californias:

By virtue of having, on the fourth day of this month in this capital at public auction and to the highest bidder, effected a sale of the part of the principal building of the mission of San Juan Capistrano, which remains after the separation of the church, rectory, town-house, school-house, and prison; as also three orchards of fruit trees and vines, and the movable goods belonging to said mission except

what belongs to the temple; the purchasers of all the foregoing proved to be Juan Forster and Santiago Mackinley, as having been the last and highest bidders in the offer they made of seven hundred and ten dollars.

In consequence whereof, and in exercise of the power vested in me by the excellent departmental assembly in its resolution relative hereto on the fourth of July, this year, and in conformity with the regulations of 28th of October, last past, I declare by the present letters patent that the said Juan Forster and Santiago Mackinley, are lawful owners of the part of the building, of the three orchards and the movable property of the mission of San Juan Capistrano, which was sold to them by means of the consideration of seven hundred and ten dollars, which they are to pay in current money or in hides and tallow, at cash prices, on the 10th of August, in the year 1846, to the departmental government, or to the creditors of said mission, who may be designated by said government; being enabled from this day, and by virtue of this document, to take the judicia possession of the building, orchards, and movable property aforesaid, which the respective magistrate will give them.

Wherefore I order that these presents, being held as a firm and valid title-deed, it be entered in the book of registry of adjudication of lands and delivered to the interested parties for their security and other purposes.

Given in the city of Los Angeles, on this common paper for want of stamped, on the 6th of December, in the year 1845.

PIO PICO.

JOSE MA. COVARRUBIAS, *Sec'y.*

Note of this superior title is taken in the respective book.

COVARRUBIAS.

120 [Original.]

EXHIBIT XXVII.—*La Purisima.*

Pio Pico Vocal Decano de la Asamblea Departamental y Gobernador Provisional de las Californias.

En virtud de haberse celebrado, el dia cuatro del corriente mes, en esta Capital en publica subasta y al mejor postor, la venta del edificio principal de la Mision de la Purisima, de las dos viñas de Jalama, tierras y muebles de la pertenencia de esta Mision con excepcion de lo perteneciente al templo ó iglesia, resultó comprador de todo lo mencionado, el Sor. Don Juan Temple por haber sido el ultimo y mejor postor en la oferta que hizo de mil ciento diez pesos.

En consecuencia y en uso de las facultades que me confirió la Exma. Asamblea Departamental en su acuerdo relativo de 4 de Julio del presente año, y de conformidad con el reglamento de 28 de Octubre ultimo pasado, declaro por las presentes letras que el mencionado Dn. Juan Temple es dueño legalmente del edificio de la Mision de la Purisima, de las dos viñas, tierras y muebles que le fueron

vendidos, mediante la cantidad de mil ciento diez pesos en moneda corriente ó en cueros y sebos, à precio de plata, que pagarà el 10 de Agosto del año de 1846, al Gobierno Departamental, ó a los acreedores de la expresada Mision que le sean designados por este, pudiendo desde ahora, y en virtud de este despacho, tomar la posesion judicial de la finca, viñas tierras y muebles mencionados que le dará el juez respectivo.

Por tanto mando, que teniendose el presente por titulo firme y valedero se tome razon de él en el libro de asientos sobre adjudicacion de terrenos, y se entregue al interesado para su resguardo y demas fines. Dado en la ciudad de Los Angeles, en este papel comun por falta absoluta dell sellado, a seis de Diciembre de mil ochocientos cuarenta y cinco.

PIO PICO.

JOSE MA. COVARRUBIAS, *S'rio.*

Queda tomada razon de este titulo en el libro respectivo. Angeles fecha *ut spra.*

COVARRUBIAS.

121 { Gobierno del Dep. [EAGLE.] De Californias. }

Sirvase Vd. mandar pagar al Señor A. B. Thompson, ó á su orden, la cantidad de pesos tres cientos setenta y seis con seis reales, (376 ps. 6 rs.,) del valor ocasionado por la venta de la Mision de la Purisima cuya cantidad deducirá Vd. de la mayor que tiene que entregar, recabando del interesado el respectivo recibo para su resguardo.

Angeles à 16 de Mayo de 1846.

PIO PICO.

Sor. Don Juan Temple, del comercio en esta Capital.

Recibí la arriba expresada cantidad, Angeles, Mayo 18 de 1846.

A. B. THOMPSON.

{ Gobierno del Depto. [EAGLE.] De Californias. }

Recibí del Señor Don Juan Temple la cantidad de doscientos pesos metalicos (200 ps.) por cuenta de mayor cantidad que debe entregar à este Gobierno por la compra que hizo de la Mision de la Purisima, y para su resguardo le doy este en la ciudad de Los Angeles a 1o. de Junio de 1846.

PIO PICO.

DON JOSE NORIEGA:

Sirvase V. pagar á Don Pio Pico, Gobernador de este Departamento, la cantidad de quinientos treinta-tres pesos, dos reales, (533 ps. 2 rs.,) en metalico, cobrando un recibo en que se expresa que con

esta cantidad ya está satisfecha la cantidad de mil ciento y diez pesos, (1,110 ps.,) en que fue rematada la Purisima con sus tierras, &c.

Angeles, Junio 15 de 1846.

JUAN TEMPLE.

122 { Gobierno del Dep. [EAGLE.] de Californias. }

Recibí Santa Barbara, Junio 22 de 1846.

PICO.

[Translation.]

EXHIBIT XXVII.—*La Purisima.*

Pio Pico, senior member of the departmental assembly, and provisional governor of the Californias:

By virtue of their having been effected on the fourth of the current month, in this capital, at public auction and to the highest bidder, the sale of the principal edifice of the mission of La Purisima, of the two vineyards of Jalama, lands and movables or chattels belonging to this mission, with the exception of what belongs to the temple or church, Mr. John Temple became the purchaser of all the above-mentioned, being the last and highest bidder in the offer which he made of one thousand one hundred and ten dollars.

In consequence and in exercise of the powers which the most excellent departmental assembly conferred upon me in their decree of the 4th of July of the present year, and in conformity with the regulations of the 28th of October last past, I declare by the present letters that the above mentioned Mr. John Temple is lawfully owner of the edifice of the mission of La Purisima, of the two vineyards, lands and chattels, that were sold to him, in the sum of one thousand one hundred and ten dollars in current money, or in hides and tallow at their cash price, which he will pay the 10th of August of the year 1846, to the departmental government, or to the creditors of the above-mentioned mission, who will be designated to him by this government; being able from this moment, by virtue of this title, to take judicial possession of the edifice, vineyards, land, and chattels mentioned, which will be given by the proper judge.

123 Therefore, I command that, taking the present for a firm and valid title, an entry be taken of it in the book of registry of adjudication upon lands, and be delivered to the person interested, for his security and other ends.

Given in this city of Los Angeles, on this common paper, for absolute want of sealed paper, on this sixth day of December, A. D. 1845.

PIO PICO.

JOSE MA. COVARRUBIAS,
Secretary.

Note has been taken of this title in the respective book. Angeles, date as above.

COVARRUBIAS.

A translated copy of a draft of Pio Pico against Mr. John Temple.

{ Governor of dep. [EAGLE.] of the Californias. }

Please pay to Mr. A. B. Thompson, or his order, the sum of three hundred and seventy-six dollars and seventy-five cents, ($376 75,) out of the value arising from the sale of the mission of La Purisima; which sum you will deduct from the greater which you have to deliver, receiving from the party interested a proper receipt for your security.

PIO PICO.

Angeles, 16 May, A. D. 1846.

Mr. JOHN TEMPLE, of the commerce of this capital.

Received the above-mentioned sum. Angeles, May 18, A. D. 1846.

A. B. THOMPSON.

A translated copy of a receipt of Gov. Pio Pico to Mr. John Temple.

{ Governor of dep. [EAGLE.] of the Californias. }

Received of Mr. John Temple the sum of two hundred dollars, ($200,) coined money, on account of a larger sum which
124 he is obligated to deliver to this government for the purchase which he made of the mission of La Purisima; and for his security I give him this, in the city of Los Angeles, on the 1st June, A. D. 1846.

PIO PICO.

A translated copy of John Temple's draft against Don Jose Noriega in favor of Pio Pico.

DON JOSE NORIEGA:

Please pay to Don Pio Pico, governor of this department, the sum of five hundred and thirty-three dollars, twenty-five cents, in coined money, taking a receipt wherein it states that, with this amount, the sum of one thousand one hundred and ten dollars, ($1,110,) for which La Purisima, its lands, etc., were sold, is paid.

JOHN TEMPLE.

Angeles, June 15, A. D. 1846.

esta cantidad ya está satisfecha la cantidad de mil ciento y diez pesos, (1,110 ps.,) en que fue rematada la Purisima con sus tierras, &c.

Angeles, Junio 15 de 1846.

JUAN TEMPLE.

122 { Gobierno del Dep. [EAGLE.] de Californias. }

Recibí Santa Barbara, Junio 22 de 1846.

PICO.

[Translation.]

EXHIBIT XXVII.—*La Purisima.*

Pio Pico, senior member of the departmental assembly, and provisional governor of the Californias:

By virtue of their having been effected on the fourth of the current month, in this capital, at public auction and to the highest bidder, the sale of the principal edifice of the mission of La Purisima, of the two vineyards of Jalama, lands and movables or chattels belonging to this mission, with the exception of what belongs to the temple or church, Mr. John Temple became the purchaser of all the above-mentioned, being the last and highest bidder in the offer which he made of one thousand one hundred and ten dollars.

In consequence and in exercise of the powers which the most excellent departmental assembly conferred upon me in their decree of the 4th of July of the present year, and in conformity with the regulations of the 28th of October last past, I declare by the present letters that the above mentioned Mr. John Temple is lawfully owner of the edifice of the mission of La Purisima, of the two vineyards, lands and chattels, that were sold to him, in the sum of one thousand one hundred and ten dollars in current money, or in hides and tallow at their cash price, which he will pay the 10th of August of the year 1846, to the departmental government, or to the creditors of the above-mentioned mission, who will be designated to him by this government; being able from this moment, by virtue of this title, to take judicial possession of the edifice, vineyards, land, and chattels mentioned, which will be given by the proper judge.

123 Therefore, I command that, taking the present for a firm and valid title, an entry be taken of it in the book of registry of adjudication upon lands, and be delivered to the person interested, for his security and other ends.

Given in this city of Los Angeles, on this common paper, for absolute want of sealed paper, on this sixth day of December, A. D. 1845.

PIO PICO.

JOSE MA. COVARRUBIAS,
Secretary.

Note has been taken of this title in the respective book. Angeles, date as above.

COVARRUBIAS.

A transluted copy of a draft of Pio Pico against Mr. John Temple.

{ Governor of dep. [EAGLE.] of the Californias. }

Please pay to Mr. A. B. Thompson, or his order, the sum of three hundred and seventy-six dollars and seventy-five cents, ($376 75,) out of the value arising from the sale of the mission of La Purisima; which sum you will deduct from the greater which you have to deliver, receiving from the party interested a proper receipt for your security.

PIO PICO.

Angeles, 16 May, A. D. 1846.

Mr. JOHN TEMPLE, of the commerce of this capital.

Received the above-mentioned sum. Angeles, May 18, A. D. 1846.

A. B. THOMPSON.

A translated copy of a receipt of Gov. Pio Pico to Mr. John Temple.

{ Governor of dep. [EAGLE.] of the Californias. }

Received of Mr. John Temple the sum of two hundred dollars, ($200,) coined money, on account of a larger sum which
124 he is obligated to deliver to this government for the purchase which he made of the mission of La Purisima; and for his security I give him this, in the city of Los Angeles, on the 1st June, A. D. 1846.

PIO PICO.

A translated copy of John Temple's draft against Don Jose Noriega in favor of Pio Pico.

DON JOSE NORIEGA:

Please pay to Don Pio Pico, governor of this department, the sum of five hundred and thirty-three dollars, twenty-five cents, in coined money, taking a receipt wherein it states that, with this amount, the sum of one thousand one hundred and ten dollars, ($1,110,) for which La Purisima, its lands, etc., were sold, is paid.

JOHN TEMPLE.

Angeles, June 15, A. D. 1846.

{ Governor of dept. [SEAL.] of the Californias. }

Received, Santa Barbara, June 22, 1846.

PICO.

[Original.]

EXHIBIT XXVIII.—*San Luis Obispo.*

Pio Pico, vocal decano de la exma. asamblea departamental y gobernador provisional de las Californias:

{ Gobierno del depto. [EAGLE.] de Californias. }

En virtud de haberse celebrado, el dia cuatro del corriente mes en esta capital, en publica subasta, y al mejor postor, la
125 venta de la parte del edificio principal de la Mision de San Luis Obispo q. resulta sobrante despues de la separacion de casa cural, consistorial, de escuela y carcel, resultaron compradores, de la expresada parte de edificio los Señores Scott y Wilson, y Don Santiago Mackinley, por haber sido los ultimos y mejores postores en la oferta q. hicieron de quinientos diez pesos y haber satisfecho esta cantidad en moneda corriente al Gobierno Departamental.

En consecuencia y en uso de las facultades q. me confirió la Exma. Asamblea Departamental en su acuerdo relativo del 4 de Julio del presente año, y de conformidad con el reglamento de 28 de Octubre ultimo pasado, declaro por las presentes letras q. los mencionados Señores Scott y Wilson y Don Santiago Mackinlay son dueños legalmente y de mancomun de todas las piezas q. correspondan à la parte del edificio de la Mision de San Luis Obispo que les fué vendida, cuyo numero y dimenciones constaràn en la posesion judicial que por orden especial de esta fecha deberà darles el Alcalde primero de San Luis Obispo, y à mas, de todos los corrales cercados de picdra que fueron del servicio de la referida Mision y no pertenezcan a ningun particular.

Por tanto, mando, que teniendose el presente por titulo firme y valdero, se tome razon de él en el libro de asientos de adjudicaciones de terrenos baldios, y se entregue a los intersados para su resgardo y demas fines.

Dado en la ciudad de Los Angeles, à seis de Diciembre de mil ochocientos cuarenta y cinco, en papel comun por no haber del sellado.

PIO PICO.

JOSE MA. COVARRUBIAS, *S'rio.*

Queda razon de este titulo en el libro respectivo. Angeles, fecha ut supra.

COVARRUBIAS.

Sor. Juez de Paez:

San Luis Obispo, Junio 22, de 1846.

De conformidad con lo pedido p'a e Lunes 23 del corriente se la dará al interesado la posesion juridica q solicita.

Yo el Juez de Paz de esta dimarcacion asi lo decreté y firmé.

PICO.

Juan Wilson, vecino del partido de Sta. Barbara, para sí y à nombre de los Señores Don Diego Scott y Don Santiago Mackinley, comparece y diciendo: 126 q. en virtud de haber comprado al Gobierno Departamental, la parte del edificio pral. de este punto, como lo manifesta el titulo q. acompaño, solicito V. á bien darme la posesion jurídica con arreglo al espresado titulo.

Por tanto A. V. Suplico acceda à mi favor en lo que recibiré gracia que juro, &c., dispensando el papel comum, por falta de sellado.

San Luis Obispo, Junio 22 de 1846.

JUAN WILSON.

En el pueblo de San Luis Obispo, à los veinte y dos dias del mes de Junio del año de mil y ochocientos cuarenta y seis, siendo presente Don Juan Wilson, se le hizo saber el auto ante nos, y dijo le oye, y es conforme y lo asenté por diligencia; de q. doy fé con dos testigos de asistencia pr. falta de Escribano.

J. DE JESUS PICO.

Asa.: JOSE GARCIA,
VICTOR LINARES.

En el pueblo de San Luis Obispo, a los veinte y tres dias del mes de Junio del año de mil y ochocientos cuarenta y seis. Yo el Juez de Paz acompañado de los de asistencia hice medir un cordel con objeto de proceder a las medidas de las fincas del edificio principal de este pueblo, y al efecto se midió un cordel de diez varas Castellanas y en sus extremos se atacaron dos estacas. Y pa. su constancia lo puse por diligencia que firmé con los de asistencia.

J. DE JESUS PICO.

Asa.: JOSE GARCIA.
VICTOR LINARES.

En seguida, en el mismo dia, mes y año, yo el Juez de Paz de San Luis Obispo, accompañado de los de asistencia, dispuse nombrar dos medidores Cordeleros de los concurrentes, y fueron nombrados Don Mercurial Garcia y Don Ygnacio Castillo, los cuales, aceptando el encargo, juraron por Dios, Ntro. Señor y la Santa Cruz, desem- 127 peñarlo fielmente segun su sabe. y entender, y lo asenté qr. diligencia q. firmé con los de asistencia.

J. DE JESUS PICO.

Asa.: JOSE GARCIA.
VICTOR LINARES.

A continuacion, en el mismo dia mes y año, yo el Juez de Paz de San Luis Obispo acompañado de los de asistencia y concurrentes ya citados, pasamos à la casa de habitacion del Ministro Parroco de e ste pueblo con objeto de empezar las medidas del edificio principal , y despue sde haberle separado à dho. Parroco, pa. su habitacion y de

mas usos que le convengan, seis cuartos y dos salas utiles pa. su habitacion cuyos estan reunidos à un solo lugar sin embargo de la division de piezas, tomaron los medidores el cordel pr. sus extremos y estacas; desde la puerta principal pr. donde se transita pa. entrar à la plaza se comenzó la medida hasta llegar à la esquina qe. está por el rumbo S. O. en donde se contaron cincuenta y seis vara Castellanas, habiendo en todas estas pr. la misma nave diez piezas utiles de habitacion, de las cuales quedan separadas dos qe. se hallan en la esquina dondo termina esta primera medida, pa. casa consistorial y carcel; de allí se continuó la medida pr. toda la orilla de la pared hasta llegar a la esquina qe. està por el rumbo N. O. y se midieron noventa y dos varas Castellanas en cuyas se comprenden dos piezas qe. son un galeron util y uno inutil sin techo; en seguida se continuó la medida hasta otra esquina qe. se halla al rumbo N. E. y habiendo llegado a ella se contaron noventa varas Castellanas en las cuales se encuentran pr. la misma nave de afuera cuatro piezas utiles; de alli se continuó la medida hasta llegar al puerton qe. està unido à la pared de la Yglesia en donde se midieron veinte y tres varas Castellanas en las que se encuentran dos piezas inutiles. Concluidas de este modo las medidas pr. la parte de afuera, y entendido Don Juan Wilson de la separacion qe. hubo pa. consistorial y carcel, y señalados los limites à que por esta parte queda sujeto, bajo el angulo de dos cientas sesenta y una varas en cuyas quedan tambien comprendidas quince piezas utiles de habitacion y tres inutiles. Pasé con los concurrentes ya citados adentro de la Plaza de dho. edificio, y tomando los medidores el cordel
128 se empezó la medida con direccion al S. O. hasta llegar a esquina, cuya medida fue de 36 varas, en las qe. se comprenden tres piezas utiles; y luego se continuó la medida pr. toda la orilla de la pared acia al N. O. la qe. terminó pr. el mismo rumbo con una esquina en donde se contaron cincuenta y ocho varas Castellanas, y en ellas un galeron util y otro inutil. En seguida se midió con direccion al N. E. hasta llegar a la esquina qe. está pr. el mismo rumbo, y se contarón sesenta varas Castellanas, y cinco piezas utiles comprendidos en ellas. De alli se hizo la medida hasta el puerton al respaldo de la Yglesia de esta pueblo, y se midieron veinte y tres varas en cuyas se comprenden dos piezas inutiles, sin techo. Concluidas de este modo las medidas, y señalados los terminos y lineas q que estan sugetos entendido el Sor. Wilson qe. el cuadro de la Plaza con los arboles qe. en él se encuentran y à mas los tres corrales de piedra pertenecientes à estas fincas son de su propriedad, pa. perfeccionar el auto en voz clara le dije: En nombre de la nacion Mejicana doy a V. posesion de la parte de esta edificio y los corrales de piedra que V. tiene comprados y que ahora se le han medido; y mandandole qe. hiciese alguna demonstracion de haber adquirido el dominio util y directo, y con esto la propiedad de dhas. fincas, como dueño y Señor de ellas tiró piedras y cavó la tierra, con lo cual se concluyó el auto, y habiendo pedido el interesado se le devuelvan estas diligencias originales. Y pa. su constancia lo firmé con los de assistencia.

J. DE JESUS PICO.

Asa.: JOSE GARCIA.
VICTOR LINARES.

SAN LUIS OBISPO, *Junio* 25 *de* 1846.

Devuelvanse estas diligencias originales al interesado pa. testimonio de adquisicion de propiedad y el uso qe. le convenga y tomese razon en el libro respectivo de esta Jusgado.

PICO.

129 SAN LUIS OBISPO, *Junio* 25 *de* 1846.

Atendido el auto anterior, con esta f'ha es devolvió à Don Juan Wilson este expediente en 7 fojas utiles, y lo asenté pr. diligencia qe. rubriqué.

(Pico's rubric.)

Queda tomada razon en el libro respectivo de posesiones de este Jusgado à fojas, 13, 14, 15, y 16.

J. DE JESUS PICO.

[Translation.]

EXHIBIT XXVIII.—*San Luis Obispo.*

Pio Pico, senior member of the most excellent departmental assembly and provisional governor of the Californias:

{ Governor of the dept. [EAGLE.] of the Californias. }

Whereas the part of the main building of the mission of San Luis Obispo, which remains after setting apart the curate's house, the town-hall, school room, and jail, was exposed at public auction to the highest bidder in this capital, on the 4th inst., and whereas, the Señores Scott and Wilson and Don Santiago McKinley became the purchasers of the said part of the edifice, by virtue of having been the last and highest bidders in their offer of five hundred and ten dollars, and having paid, in full satisfaction, this sum in current money to the departmental government:

Now therefore, I, using the faculties conferred on me by the most excellent departmental assembly in its resolutions on the matter, dated July 4th of the present year, and in conformity with the regulations of October 28th ultimo, do declare, by these presents the said Señores Scott and Wilson and Don Santiago McKinley to
130 be the legal owners in partnership of all the rooms which belong to that part of the mission building of San Luis Obispo, which was sold to them; the number and size of which will be shown by the judicial possessions which, by a special order of this date, the first alcalde of San Luis Obispo ought to give them, with all the corrals fenced with stone which were the property of said missions and belong to no individual.

Therefore, I order that this title being held as firm and valid, note be taken of it in the book of entries of grants of vacant lands, and

it be delivered to the parties interested for their security and other purposes.

Given in the city of Los Angeles on the sixth day of December, one thousand eight hundred and forty-five, on common paper for want of stamped.

(Signed) PIO PICO.

(Signed) JOSE MARIA COVARRUBIAS, *Secretary.*

Note has been made of this title in the respective book. Angeles, dated as above.

COVARRUBIAS.

To the justice of the peace:

SAN LUIS OBISPO, June 22, 1846.

In conformity with this request, on Monday, the 23d inst., the judicial possession solicited will be given to the party interested.

I, the justice of the peace of this demarcation, thus decreed, ordered and signed.

(Signed) PICO.

Juan Wilson, resident of the district of Santa Barbara, for himself, and in the name of Don Diego Scott and Don Santiago McKinley, appears and represents: That, in virtue of having purchased from the departmental government the part of the principal building of this place, as shown by the title which I transmit herewith, I pray you will consent to give me the judicial possession in conformity with said title. Therefore, I request you to grant me this favor, in which I will receive grace, which I swear, etc. Excusing the use of common paper for want of stamped.

(Signed) JUAN WILSON.

SAN LUIS OBISPO, June 22d, 1846.

131 In the pueblo of San Luis Obispo, on the twenty-second day of the month of June, in the year one thousand eight hundred and forty-six, present Don Juan Wilson, and I notified him of the preceding order, and he acknowledged notice, and I noted it officially, and certify with the assisting witnesses for want of a notary.

(Signed) J. DE JESUS PICO.

Asst'g witnesses:

(Signed) JOSE GARCIA.

(Signed) VICTOR LINARES.

In the pueblo of San Luis Obispo, on the twenty-third day of the month of June, of the year one thousand eight hundred and forty-six, I, the justice of the peace, accompanied by assisting witnesses, caused to be measured a cord for the purpose of measuring the "fincas" (premises) of the main building of this pueblo, and a cord was measured ten Spanish varas long, and two stakes were tied to its extremities, and in testimony I noted it officially, which I signed, with those of assistance.

(Signed) J. DE JESUS PICO.

Asst'g witnesses:

(Signed) JOSE GARCIA.

(Signed) VICTOR LINARES.

In continuation on the same day, month, and year, I, the justice of the peace of San Luis Obispo, accompanied by assisting witnesses, decided to appoint from the bystanders two measuring rope-bearers, and appointed Don Mercurial Garcia and Ignacio Castillo, who, accepting the office, made oath by God, our Lord, and the holy cross, to discharge it faithfully to the best of their knowledge and belief, and I noted it officially, which I signed, with those of assistance.

(Signed) J. DE JESUS PICO.

Asst'g witnesses:
(Signed) JOSE GARCIA.
(Signed) VICTOR LINARES.

132 In continuation on the same day, month, and year, I, the justice of the peace of San Luis Obispo, accompanied by the assisting witnesses and other persons aforementioned, went to the dwelling-house of the parish minister of this pueblo, for the purpose of commencing the measurements of the main building, and after having set apart for said curate six good rooms and two halls, which are united in one place, notwithstanding the division of rooms, for his dwelling and other convenient purposes, the measurers took the cordel by its extremities and stakes, and measured; from the principal door through which they pass to enter the plaza, fifty-six Spanish varas to the southwest corner of the building, in which distance and in the same range were ten good rooms for dwelling, of which the two which are at the corner where the measurement terminated were set apart for town hall and jail; thence the measurement was continued along the wall to the northwest corner, ninety-two Spanish varas, in which are included one gallery, in good order, and another without roof; then the measurement was continued ninety Spanish varas to the northeast corner, in which distance in the same range outside are four good rooms; thence to the large gate next to the wall of the church, twenty-three Spanish varas, in which are two good rooms. The measurement on the outside being thus concluded, and Don Juan Wilson having been informed of the reservation which was made of town-hall and the jail and the limits designated, this part is included in a boundary of two hundred and sixty-one varas, in which are included fifteen good rooms for dwellings and three useless ones. I then passed into the plaza of said building, with the aforesaid persons, and the measurers taking the cordel, measured southwest to the corner thirty-six varas, in which are three useful rooms; and then, continuing to the northwest along the wall, the measurement ended in a corner distant fifty-eight Spanish varas, including one useful and one useless gallery; thence northeast to the corner, which is in that direction sixty Spanish varas, with five good rooms contained in it; thence directing the measurement to the large gate behind the church twenty-three varas, containing two rooms without roofs. The measures being thus ended and the bounds and lines to which they are sub-
133 ject designated, Señor Wilson being made to understand that

the square of the plaza with the trees which are in it, and also the three stone corrals belonging to these buildings are his property, to perfect the act, in a loud voice I said to him: In the name of the Mexican nation, I give you possession of the part of this building and the stone corrals which you have purchased, and which have just been measured; and directing him to make some demonstration of having acquired the useful and direct dominion and as such the ownership of said buildings, as owner and lord of them, he threw stones and dug earth with which the act was concluded, the interested party having asked that these original official acts be returned to him, and in testimony thereof I signed with assisting witnesses.

(Signed) JOSE DE JESUS PICO.

Asst'g witnesses:
(Signed) JOSE GARCIA.
(Signed) VICTOR LINARES.

SAN LUIS OBISPO, *June* 25, 1846.

Let these original official acts be delivered to the party interested for testimony of acquisition of ownership and the use he may find convenient, and let note thereof be taken in the corresponding book in this office.

(Signed) PICO.

SAN LUIS OBISPO, *June* 25, 1846.

In compliance with the preceding order on this date, this expediente was given to Don Juan Wilson in seven folios, and I noted it officially and signed in rubric.

(Rubric of Pico.)

Note has been taken in the proper book of possessions in this office on folios 13, 14, 15, and 16.

(Signed) JOSE DE JESUS PICO.

[Original.]

134 EXHIBIT XXIX.

Pio Pico, Gobernador Constitucional del Departamto. de Californias:

{ Gobierno del Dep. [EAGLE.] De Californias. }

Autorizado previamente por la Exma. Asamblea Departamental para la enagenacion de las misiones à fin de pagar sus deudas y evitar la total ruina de ellas, atendiendo à que el Señor Dn. Santiago Argüello ha hecho al Gobierno servicios de consideracion en todos tiempos, y así mismo, facultado auxilios siempre que se le han solicitado, para conservacion del proprio Goberino y seguridad del Departmento sin habersele indemnizado; habiendo este Señor pretendido, para su

beneficio personal y el de su numerosa familia, el comprar la Mision de San Diego con todos sus terrenos, fincas rusticas y urbanas que tuviere, pagando integra y religiosamente las deudas pasivas de dicha Mision que aparecieren justificadas, segun las relaciones que de ellas formó la comision de Misiones, obligandose à mas à proporcionar la subsistencia del Padre Ministro que allí existe y la conservacion del culto divino;—visto y considerado todo lo que ver y considerar convino, en uso de las facultades con qe. me hallo investido, he venido en hacer venta real y enagenacion perpetua para siempre jamas à Dn. Santiago Argüello segun y conforme ha convenido, con todas las pertenecias que hoy cuenta y reconoce anexas, consistan en terrenos, fincas, bienes raices ó semovientes; en cuyo testimonio y para su validacion y mejor cumplimiento se ponen las condiciones siguientes:

1a. Pagará á los acreedores de la Mision de San Diego las cantidades que aparecieren justificadas, pudiendo convenirse con ellos en el tiempo y modo de verificarlo.

2a. Desde ahora es de su cuenta particular todo lo necesario para la subsistencia del Padre Ministro que allí existe, como igualmente para la conservacion del culto divino.

3a. No se podrá alegar lesion enorme por esta venta de parte de ninguno, y el exceso en poco ó mucha suma queda a favor del comprador por ser el valor justo que actualmente tiene dicha Mision y no haber quien diese mas por ella.

4a. Se exceptuan de la venta anterior el templo y todas sus pertenencias y habitaciones del Padre Ministro.

En consecuencia declaro por las presentes letras ser dueño legitimo de la referida Mision de San Diego el Señor arriba mencionado, en los terminos y bajo las condidiones expresadas, por cuya virtud podrá tomar posesion de ella desde ahora ó cuando le conviniere. Y para la dibida constancia en todos tiempos, doy este documento como formal escritura que serà reconocido y acatado por todas las autoridades civiles y militares de le Nacion Mejicana en este y en los demas departamentos, y aun por el Gobierno General de ella, autorizado debidamente con mi firma y la del Secretario de mi despacho, en este papel comun por falta de sellado, en la Ciudad de los Angeles, á ocho de Junio de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE MATIAS MORENO, *Srio. Ynto.*

[Translation.]

EXHIBIT XXIX.—*San Diego.*

Pio Pico, constitutional governor of the department of the Californias:

{ Governor Dept. [EAGLE.] of the Californias. }

Previously authorized by the most excellent departmental assembly to alienate the missions, in order to pay their debts and to avoid their

total ruin, knowing that Señor Don Santiago Arguello has rendered the government important services at all times, and has also given aid, when asked, for the preservation of the legitimate government and the security of the department without having received any indemnification; and whereas this señor has, for his own personal benefit and that of his numerous family, asked to purchase the mission of San Diego, with all its lands and property belonging to it both in
136 town and country, he paying fully and religiously the passive debts of said mission which appear established according to the report of the committee on missions; binding himself, besides, to provide for the support of the priest located there, and of divine worship.

Having seen and considered all that is to be seen and considered, and using the faculties conferred upon me, I have made real sale and perpetual alienation of it forever to Don Santiago Arguello, according to and in conformance with what has been agreed upon, with all the appurtenances found and known at the time as belonging to it, whether consisting in lands, buildings, improved real estate, or cattle.

In testimony of which, and for its validity and better fulfilment, the following conditions are added:

1st. He shall pay the creditors of the mission of San Diego the sum which may appear justly due them, he being authorized to enter into an agreement with them as to the time and mode of settling them.

2d. From now henceforth he shall bear upon his own account the necessary expenses for the subsistence of the priest located there, and also for the preservation of divine worship

3d. No one shall claim unreasonable damages on account of this sale; and the excess, whether great or small, is granted to the purchaser, for he takes it at the true value which the said mission now possesses, and there is no one who will give more for it.

4th. The church and its appurtenances and the dwelling of the priest are excepted from the foregoing sale.

In consequence, I declare by these presents the aforesaid señor to be the legitimate owner of said mission of San Diego, on the erms and under the conditions above expressed, by virtue of which he may take possession of it from this time, or whenever he may see fit.

And, as a proper testimony in all future time, I give this document as a formal deed, which shall be acknowledged and respected by all civil and military authorities of the Mexican nation in this and other departments, and even by the general government of
137 Mexico. Properly authorized under my hand, and that of my secretary of state, on this common paper, there being none stamped, in the city of Los Angeles, the 8th day of June, one thousand eight hundred and forty-six.

(Signed) PIO PICO.

(Signed) JOSE MATIAS MORENO,
Sec'ry ad interim.

[Original.]

EXHIBIT XXX.—*San Luis Rey.*

Pio Pico, gobernador constitucional del departamto. de Californias:

{ Gobierno del depto. [EAGLE.] de California. }

Por cuanto Don Antonio José y Don José Antonio Pico se presentaron á este Gobierno, solicitando se les dé en legitima, posesion la Mision de San Luis Rey y el Rancho de Palas con los terrenos que les pertenecen, en pago de dos mil pesos en plata, y cuatro cientos treinta y siete pesos cuatro reales en semillas, con qe. han auxiliado al mismo Gobierno en sus urgencias, obligandose ambos à satisfacer en toda clase de esquilmos las deudas de la expresada Mision de San Luis Rey en el termino de cuatro años; teniendo en consideracion los perjuicios que los interesados han tenido por el retardo de la satisfaccion de aquello deuda, y que las fincas, que estan en un abandono total, no pagarian à los demas acreedores, he venido en concederles a los expresados Sres. Dn. Anto. José Cot y Dn. José Antonio Pico, en virtud de las facultades con que me hallo investido, quedando responsables à satisfacer las deudas de la referida Mision de San Luis Rey en el tiempo que ofrecen.

Y para qe. el presente documento tenga la validacion correspondiente, anotese y tomese razon en el libro respectivo por el Señor Secretario del despacho pa. resguardo de los interesados; extendiendoseles en papel comun por falta del sellado correspondiente.

138 Dado en la casa de Gobierno en la Ciudad de los Angeles, à los diez y ocho dias del mes de Mayo, de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE MATIAS MORENO, *Srio. Ynto.*

Queda tomada razon de este superior despacho en el libro respectivo.

MORENO.

[Translation.]

EXHIBIT XXX.—*San Luis Rey.*

Pio Pico, constitutional governor of the department of the Calfornias:

{ Governor of the dept. [EAGLE.] of the Californias. }

Whereas Don Antonio José Cot and Don José Antonio Pico have presented themselves to this government, petitioning that it shall give them a legitimate possession of the mission of San Luis Rey

and the rancho of Palas, with the lands which pertain to them, in payment of two thousand dollars in money and four hundred and thirty-seven dollars and four reales in grain, with which they have assisted the government in its exigencies, they both obligating themselves to satisfy, in every description of produce, the debts of the said mission of San Luis Rey in the term of four years; bearing in consideration the damages which the interested parties have sustained in the delay of the satisfaction of the said debt, and that the edifices, which are in a total abandonment, will not pay the other creditors, I have resolved to concede them to the Señores Don Antonio José Cot and Don José Antonio Pico, in virtue of the faculties with which I find myself invested; they remaining responsible to satisfy the debts of said mission of San Luis Rey, in the time which they offer. And in order that the present document
139 shall have such corresponding validity, let it be entered and taken account of in the respective book by the senor secretary of state, for the security of the interested, being drawn on common paper, for lack of the proper sealed.

Given in the government house in the city of Los Angeles, this 18th day of May, 1846.

PIO PICO.

JOSE MATIAS MORENO, *Secretary ad interim.*

Note of this superior despatch has been made in the respective book.

MORENO.

[Original]

EXHIBIT XXXI.—*San Gabriel.*

Pio Pico, Gobernador Constitucional, del Departamento de Californias:

Gobierno del Depto.
[EAGLE.]
De Californias.

Autorizado previamente por la Exma. Asamblea Departamental para la enagenacion de las Misiones, asi para pagar sus deudas y evitar la total ruina de ellas, como para proporcionar recursos que sirvan à la defensa comun en el caso de una invasion estrangera que segun datos fe hacientes se halla muy proxima de suceder, en cuya circunstancia el Gobierno del Departamento está facultado ampliamente por el Supremo de la Nacion; atendiendo á que los Señores Don Perfecto Hugo Reid y Don Julian Workman han hecho al Gobierno servicios de consideracion, y tambien facilitado buenos auxilios para su mejor conservacion y seguridad del Departamento, bajo la garantía de justa indemnizacion cuando la hacienda general estuviese desahogada; habiendo estos Señores solicitado, para su beneficio personal y el de sus familias, la Mision de San Gabriel, con todos sus terrenos, fincas rusticas y urbanas, en pago de las cantidades que en diferentes èpocas han facilitado al Gobierno Departamental,
140 obligandose à mas à satisfacer integra y religiosamente las

deudas pasivas de dicha Mision que aparecieren justificadas segun la relacion qe. de ellas formó la comision de Misiones; como tambien à señalar una parte ó cantidad proporcionada para subsistencia del Padre Ministro que allí exista y conservacion del culto divino; visto y considerado lo que ver y considerar convino, en uso de las facultades con que me hallo investido, he venido en hacer venta real y engenacion perpetua para siempre jamas, à los Señores Perfecto Hugo Reid y Julian Workman, de la Mision de San Gabriel segun y conforme ellos han convenido, con todas las pertenencias que hoy cuenta y reconoce anexas, consistan en terrenos, fincas, bienes raices ó semovientes, en cuyo testimonio para su validacion y mejor cumplimiento se ponen las condiciones siguientes:

1a. Pagaràn à los acreedores de la Mision de San Gabriel las cantidades que aparecieren justificadas, à lo mas en el termino de dos años, pudiendo convenirse con ellos à la espera, abonandose à sí mismos las cantidades que hubieren desembolsado y estan reconocidas por legales.

2a. La venta se hace permanente de los edificios principales y particulares, de otras fincas, huertas, viñas y demas bienes raices y semovientes, y de los terrenos totalmente baldios que tuviere y no reconocieren propiedad particular ninguna.

3a. Desde ahora para siempre facilitaràn de su cuenta lo necesario para la subsistencia del Padre Ministro que en todo tiempo existiere allí, como igualmente para la conservacion del culto divino.

4a. No se podrà alegar lesion enorme por esta venta de parte de ninguno, y el exceso en poca ò mucha suma queda à favor de los compradores por ser el justo valor que tiene actualmente dicha Mision y no haber quien diese mas por ella.

En consequencia declaro por las presentes letras ser dueños legitimos de la expresada Mision de San Gabriel, de mancomun, los Señores arriba mencionados en los terminos y bajo las condiciones expresadas, por cuya virtud podrán tomar posesion de ella desde ahora. Y para la debida constancia en todos tiempos, doy este documento, como formal escritura, que serà reconocido y acatado por todas las
141 autoridades civiles y militares de la Nacion Mejicana en este y en los demas Departamentos y aun por el Gobierno General de ella, autorizado debidamente con mi firma y la del Secretario de mi despacho, en este papel comun por absoluta falta del sellado, à ocho de Junio, de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE MATIAS MORENO, *S'rio Ynt'o.*

Queda tomada razon de este Superior Despacho en el libro respectivo.

MORENO.

[Translation.]

EXHIBIT XXXI.—*Title to San Gabriel mission.*

Pio Pico, constitutional governor of the department of the Californias:

{ Governor of Dep. [EAGLE] of the Californias. }

Having been heretofore authorized by the most excellent departmental assembly to alienate the missions, as well for paying their debts and avoiding the total ruin of the same, as for obtaining funds to provide for the common defense in case of a foreign invasion, which according to credible information is very close at hand, in which case the government of the department has received ample powers from the supreme one of the nation: Considering that the Señores Don Perfecto Hugo Reid and Don Julian Workman have rendered considerable services to the government and also lent good assistance for the better preservation and security of the department under guarantee of just recompense whenever the general treasury should be relieved; and whereas those señors have solicited for their personal benefit, and that of their families, the mission of San Gabriel, with all its lands, improvements of town and country, in payment of the sums which at different periods they have advanced to the
142 departmental government, binding themselves to satisfy fully and religiously the debts outstanding against said mission which may be proved according to the report of the same made by the committee on missions, as also to assign a proportional part or sum for the maintenance of the ministering fathers who may live there, and for the preservation of divine worship; having seen and considered all it behooves to see and consider,

In the exercise of the power wherewith I find myself invested, I have to come to make a real sale and perpetual alienation forevermore to the Señores Perfecto Hugo Reid and Julian Workman of the mission of San Gabriel, according and conformably as they have agreed, together with all the appurtenances which at this day are reckoned and considered as appertaining to the same, whether they consist in lands, real estate or cattle.

In testimony whereof, and for the validity and better accomplishment hereof, the following conditions are imposed:

1st. They will pay to the creditors of the mission of San Gabriel the sums which may appear and be proved, at the furthest, in the term of two years, with power to agree with them for delay.

They will also credit themselves with the sums they may have disbursed and acknowledged as lawful.

2d. The sale is hereby made of the principal and private edifices, of other improvements, gardens, vineyards, and other real estate and cattle, of the lands wholly unoccupied there may be, and which do not belong to the property of any individual whatever.

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3d. Henceforward they will advance, on their own account, the necessaries for the subsistence of the father ministers who at any time may live there, as also for the preservation of divine worship.

4th. Neither party to this sale shall have power to allege excessive damages, and the balance, whether the same amount to a smaller or larger sum, remains in favor of the purchasers, they having paid the just value which said mission actually possesses, and there being no one who would give any more for it.

143 In consequence, I declare by these present letters, that the persons above named are legitimate owners of the said mission of San Gabriel, jointly, on the terms and under the conditions above stated.

By virtue whereof, they may take possession of the same from this moment, and for due testimony at all times I give this instrument as a deed in due form, which is to be acknowledged and respected by all the civil and military authorities of the Mexican nation in this and the other departments, and even by the general government of the same, being duly certified with my signature and that of my secretary of state, on this common paper, there being absolutely none stamped, on the eighth day of June, one thousand eight hundred and forty-six.

PIO PICO.

JOSE MATIAS MORENO, *Sec'y pro tem.*

Note has been made of this superior despatch in the respective book. MORENO.

[Original.]

EXHIBIT XXXII.—*San Fernando.*

{ Gobierno del Depto. [EAGLE.] De Californias. }

El infrascrito Gobernador Constitucional del Departamento de Californias en virtud de las facultades de que se halla investido por el Gobierno Supremo de la Nacion, y por decreto de la Honorable Asamblea Departamental de trece de Abril del presente año, para proporcionar recursos à fin de sostener la intregridad del territorio de este Departamento, enagena en la persona de Dn. Eulogio de Celis, y sus herederos, la ex-Mision de Sn. Fernando en la cantidad de

144 catorce mil pesos que recibe, con todas sus propiedades, fincas, terrenos, è inventario, menos la Yglesia que queda para uso pūblico con todas sus pertenencias, y á proporcionar lo necesario al culto divino.

Constituyendose el referido comprador mantener los actuales indios viejos en sus terrenos por el tiempo de sus dias, pudiendo hacer sus siembras con solo la condicion de no poder enagenar los terrenos que cultiven, y cualquiera otros que posean sin titulo anterior del Gobierno Departamental; por tanto se reconocerà al citado Señor Celis o mo legitimo propietario de la mencionada ex-Mision de San Fera ndo, para que haga el uso que mejor le convenga, garantizandole

como le garantiza este Gobierno la precitada finca por bien habida, con todas las prerogativas que las leyes señalan à favor de los compradores, con solo la condicion de que no tomarà posesion el referido comprador en el termino de ocho meses contados desde la fecha en cuyo termino le queda la accion al Gobierno de hacer nulo el presente contrato, reintegrando al expresado Señor Celis la cantidad de catorce mil pesos que desembolsa con el correspondiente premio, a estilo de comercio; pero si este reintegro no tuviere efecto en los citados ocho meses, tengan por valida al presente venta.

El antereferido comprador se compromete en asegurarle al Padre Ministro de aquel establecimiento, la manutencion y vestuario con la posible decencia, y asi mismo las piezas de habitacion que tiene asignadas ó las que justamente necesite.

Y para la debida constancia y seguridad del intersado, se estiende la presente escritura, que serà reconocida y acatada por todas las autoridades del Departamento para su mejor cumplimiento.

Y en preuba de lo cual, se autoriza y firma por el infrascrito y Secretario del despacho, en la Ciudad de Los Angeles, en este papel comun por falta del sellado, à diez y siete de Junio de mil ochocientos curaenta y seis. PIO PICO.

JOSE MATIAS MORENO, *Srio. Ynto.*

Queda tomada razon de este Superior despacho en el libro respectivo. MORENO.

145 [Translation.]

EXHIBIT XXXII.—*San Fernando.*

{ Governor of Dep. [EAGLE.] of the Californias. }

The undersigned, constitutional governor of the department of the Californias, in virtue of the powers vested in him by the supreme government of the nation, and in virtue of a decree of the honorable departmental assembly, of April thirteenth of the present year, to raise means for the purpose of maintaining the integrity of the territory of this department for the sum of fourteen thousand dollars, which he receives, sells unto Don Eulogio de Celis, and his heirs, the ex-mission of San Fernando, with all its properties, estates, and lands, and inventory, with the exception of the church and all its appurtenances which remains for public use, and he to provide what is necessary for divine worship.

Said purchaser obligating himself to maintain on their lands the old Indians on the premises during their lifetime, with the right to make their crops, with the only condition that they shall not have the right to sell the lands they cultivate, and any other which they possess, without anterior title from the departmental government; therefore the aforesaid Señor Celis shall be acknowledged as the legitimate owner of the aforesaid ex-mission of San Fernando, to use the same as to him shall seem best, guaranteeing unto him as this

government does guarantee, that he is well possessed of the aforesaid estate, with all the prerogatives granted by law to purchasers, with the only condition that the abovementioned purchasers shall not take possession within the space of eight months from the date hereof, within which period the government shall have the right to annul this contract by reimbursing to the aforesaid Señor Celis the sum of fourteen thousand dollars, with interest at the current commercial rates; but if this reimbursement is not made within the aforesaid eight months this sale shall be valid.

The above mentioned purchaser binds himself to warrant
146 to the father minister of the aforesaid establishment his subsistence and clothing with all possible decency, together with the rooms assigned to him or those which he justly requires.

And for the establishment of this fact, and the security of the purchaser the present document is issued, and shall be acknowledged and respected by all the authorities of the department for its accomplishment.

And in testimony hereof the undersigned and secretary of the department grant this authority and affix their signatures, in the city of Los Angeles, on this ordinary paper for want of stamped paper, the seventeenth of June, one thousand eight hundred and forty-six.

PIO PICO.

JOSE MATIAS MORENO, *Sec'y pro tem.*

[Original.]

EXHIBIT XXXIII.—*San Buenaventura.*

Gobierno del Depto.
[EAGLE.]
de Californias.

Pio Pico, Gobernador Constitucional del Departamento de Californias:

Autorizado previamente por la Exma. Asamblea Departamental para la enagenacion de las Misiones, asi para pagar las deudas, y evitar la total ruina de ellas, como para proporcionar recursos que sirvan à la defensa comun en el caso de una invasion estrangera que segun datos fe hacientes se halla muy proxima de suceder; en atencion que el Señor Don José Arnaz ha hecho al Gobierno servicios de consideracion, y tambien facilitado buenos auxilios para la mayor conservacion y seguridad del Departamento, bajo la garantía de justa indemnizacion cuando la hacienda general estuviere desahogado, y no teniendo modo ó forma de cubrir la cantidad que justamente le adeuda este Gobierno, le da en pago de la que en diferentes épocas ha facilitado al Gobierno, y la que ha recibido presente, en
147 total de doce mil pesos; y considerando todo lo que hay que ver y meditar convino; en uso de las facultades con que me hallo investido por el supremo Gobierno, y decreto de 13 de Abril ultimo de la Exma. Asamblea Departamental, he venido en hacer venta real y efectiva enagenacion perpetua para siempre jamas, al expresado Don José Arnaz, de la Mision de San Buenaventura segun

y conforme ha convenido, con todas las pertenencias que hoy cuenta y reconoce annexas, consistan en terrenos, fincas bienes raices y semovientes; en cuyo testimonio y para su validacion, se ponen las condiciones siguientes:

1a. Pagará a los acreedores de la Mision de San Buenaventura las cuentas que aparecieren justificadas, a lo mas, en el termino de un año.

2a. Desde ahora para siempre facilitará de su cuenta lo necesario para la subsistencia y véstuario del Padre Ministro, y en todo tiempo subsistirá allí, como igualmente para la conservacion, del culto divino, dejando á beneficio de dicho padre las piezas que tiene ocupadas para su habitacion.

3a. No se podrà alegar lesion enorme por esta venta de parte de ninguno, y el exceso, en poca ó mucha suma; queda à favor del comprador por ser el justo valor que tiene actualmente dicha Mision, y no haber quien diere mas por ella.

4a. Se exceptuara de la venta anterior el templo y todas sus demas pertenencias que le corresponden.

5a. Los terrenos de que se hace mencion y que se reconocen por de la mision se comprenden de la Laguna Huenemo, el palo alto, los de siembras de Santa Paula, la cañada de la mision, y todos los que no esten concedidos por justo titulo del Gobierno, y que reconozcan la propiedad del establecimiento, de los que se hace venta, con todos los bienes raices y semovientes, utiles, y demas que sea de su propiedad.

En consecuencia declaro, por las presentes letras, ser dueño legitimo de la expresada Mision de San Buenaventura el Señor arriba mencionado en los terminos y bajo las condiciones expresadas, por cuya virtud podrà tomar posesion de ella desde ahora. Y para la debida constancia en todos tiempos, doy este documento, como formal escritura, que serà reconocido y acatado por todas las autoridades civiles y militares de la nacion Mejicana en este y en los demas
148 Departamentos, y aun per el Gobierno general de ella, autorizado debidamente con mi firma y la del Secretario de mi despacho, en esta papel comun por absoluta falta de sellado, à ocho de Junio de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE MATIAS MORENO, *Srio. Ynto.*

Queda tomada razon de este Superior despacho en el libro respectivo.

MORENO.

[Translation.]

EXHIBIT XXXIII.—*Title to mission of San Buenaventura.*

{ Governor of Dep. [EAGLE.] of the Californias. }

Pio Pico, constitutional governor of the department of the Californias:

Previously authorized by the most excellent departmental assembly for the alienation of the missions, as well for the payment of their

debts and to avoid their total ruin, as to procure the means that might serve for the common defense in the case of a foreign invasion, which according to reliable information is near happening, in consideration of Don José Arnas having rendered to the government considerable services, and also having furnished good means for the best preservation and security of the department under the guaranty of a just indemnity when the general treasury shall be disembarrassed, and not having the resources to reimburse the amount which is so justly due him by this government, it gives him in payment for the amounts which he has furnished at different times to the aforesaid government, and which it has received, and which makes the sum twelve thousand dollars, and considering the existing circumstances, using the faculties with which I am invested by the supreme government, and decree of the departmental assembly of the 13th of April last, I have
149 sold to the aforesaid José Arnas in fee the mission of San Buenaventura as agreed upon, with all its appurtenances, consisting in lands, estates, properties, cattle, and movables; and in testimony whereof, and for the validity of the contract, the following conditions are established:

1st. He shall pay the creditors of the mission of San Buenaventura, within the space of at least one year, the amounts which shall be certified.

2d. From this day he shall furnish, on his own account, the means for sustenance and clothing of the father minister, who shall at all times reside there, and for the conservation of divine service, leaving for the benefit of said father the rooms which he occupies.

3d. Enormous lesion in this sale shall not be set up by either party; and the amount, either small or considerable, shall be interpreted in favor of the purchaser as being the actual just price of said mission, there being no one that would give more for it.

4th. The church building and all other appurtenances thereunto belonging, shall be excepted from the above sale.

5th. The lands which are here mentioned, and which are known as belonging to the mission, include the Laguna Huenemo, el Palo Alto, the grain fields of Santa Paula, la Cañada de la Mision, and all those which have not been granted with a good title from the government, which are recognised as the lands of the establishment which is hereby sold with all its property, cattle, utensils, and other movables which appertain to the same.

In consequence whereof the aforesaid Señor Arnas is declared by these presents to be the legitimate owner of the aforesaid mission of San Buenaventura under the foregoing terms and conditions.

In consequence whereof he may take immediate possession of the aforesaid mission. In proof whereof, I execute this document in due form, which shall be acknowledged and respected by all the civil and military authorities of the Mexican nation in this and other departments, and even by the general government.

Duly authorized under my hand and that of the secretary of
150 state, on this ordinary paper for want of stamped paper, this 8th day of June, 1846. PIO PICO.

JOSE MATIAS MORENO, *Secretary pro tem.*

Note of this superior despatch has been made in the respective book.

MORENO.

[Original.]

EXHIBIT XXXIV.—*Santa Barbara.*

Pio Pico, Gobernador Constitucional del Departamento de Californias:

{ Gobierno del Depto. [EAGLE.] De Californias. }

Facultado ampliamente por el Supremo Gobierno Nacional para proveer à la defensa comun del Departamento en el caso de una invasion que con fundamento se teme, y siendo necessario para ello hacerse de algunos recursos, habiendose presentado à este Gobierno Don Ricardo S. Den manifestando q. compraba la Mision de Santa Barbara con toda clase de pertenencias que le corresponden ofreciendo la cantidad de siete mil y quinientos pesos, y obligandose à dar la subsistencia al Padre Ministro; obrando en consecuencia con el decreto de la Honorable Asamblea relativo à Misiones de 13 de Abril ultimo, visto y considerado todo cuanto debia tenerse presente; he venido hacer venta formal y efectiva de la Mision de Santa Barbara con todas sus bienes raices y semovientes y terrenos que no reconozcan propiedad particular que le correspondieren, à Don Ricardo S. Den, mediante la cantidad de siete mil y quinientos pesos que ha entregado al Gobierno Departamental, exceptuandose de la venta la Yglesia
151 y sus pertenencias asi como las piezas de habitacion del Reverendo Padre que allí existe, y bajo las condiciones siguientes:

1a. Respetarà las propiedades de los Indios que tuvieren establecidas, y no los molestarà ni privarà de ellas en virtud de esta venta.

2a. Señalarà, á los indios que quisieren, terrenos para que hagan siembras à su beneficio, dando les derecho sobre ellas, y no impedirà que introduzcan bienes de Campo en los lugares que presten comodidad, bajo la condicion de que no les enagenaran à ninguna persona y en el caso de abandono quedan al beneficiodel comprador.

3a. Proporcionarà lo necesario para la subsistencia del Padro Ministro y conservacion del culto divino.

4a. Tan luego como sean cumplidos los nueve años en que està arrendada la Mision, tomarà la posesion de ella, no pudiendo entre tanto disponer de ninguna de sus propiedades sino es con el consentimiento de los arrendatarios.

En consecuencia declaro, por las presentes letras, ser dueo legitimo de la expresada Mision de Santa Barbara Don Ricardo S. Den, en los terminos y bajo las condiciones expresadas, con lo cual es conforme.

Y para la debida constancia en todos tiempos, doy este documento como en formal escritura, q. sera reconocido y acatado por todas las autoridades civiles y militares de la Nacion Mejicana, en este y en los demas departamentos, y ann por el Gobierno General de ella, autori-

zado debidamente con mi firma y la del Secretario de mi despacho, en este papel comun por absoluta falta del sellado, en los Angeles á diez de Junio de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE ATIAS MORENO, *S'rio Ynto.*

Queda tomada razon de este Superior Titulo de venta, en el libro a que corresponde, fha. ut supra.

MORENO.

152 [Translation.]

EXHIBIT XXXIV.—*Santa Barbara.*

Pio Pico, constitutional governor of the department of the Californias:

{ Governor of the Dept. [EAGLE.] of the Californias. }

Fully empowered by the supreme government of the nation to provide for the general defense of this department in case of an invasion, which there is every reason to fear, and it being necessary to raise some supplies for that purpose:

This government having received the offer of Mr. Richard S. Den, for the purchase of the mission of Santa Barbara with all things appertaining thereto, for the sum of seven thousand five hundred dollars, besides binding himself to provide maintenance for the missionary priest. Acting in conformity with the decree of the honorable departmental assembly of the 13th April last, after having examined and considered everything requisite in this matter, I have resolved to make a genuine and effective sale of the mission of Santa Barbara, with all its property, tenements, stock, and lands, (that do not belong to private individuals,) to Richard S. Den, by virtue of the payment of the sum of seven thousand five hundred dollars, which he has delivered to this departmental government; excepting from the sale the church and its appurtenances, and also the rooms occupied by the reverend priest who lives there, and on the following conditions:

1st. He shall respect the property of the Indians who may be established there, he shall neither molest, or dispossess them in virtue of this sale.

2d. He shall mark out the lands which the Indians wish to cultivate for their own benefit, giving them dominion over the same. He shall not prevent their placing stock on those places which are convenient, on condition that they shall not confer these privileges to any other person, and in case of abandonment they
13 shall remain for the benefit of the purchaser.

3d. He shall provide the necessary subsistence for the reverend minister, and for the preservation of divine worship.

4th. So soon as the nine years are completed for which the mission is rented he shall take possession of the same, in the interim he cannot dispose of any part of the property without the consent of the lessees.

I therefore declare, by these presents, that Richard S. Den is the legitimate owner of the aforesaid mission of Santa Barbara on the terms and conditions expressed herein, with which he is satisfied, and for perfect evidence at all times, I give this document, as a genuine title deed which will be acknowledged and respected by all the civil and military authorities of the Mexican nation in this and every other department, and likewise by the general government, being duly legalized by my signature, and that of my secretary of state, on this common paper for the absolute want of stamped paper, in Los Angeles, on the 10th day of June, 1846.

PIO PICO.

JOSE MATIAS MORENO, *Secretary ad interim.*

Note of this superior title of sale has been made in the respective book, date as above. MOENO.

[Original.]

EXHIBIT XXXV.—*Santa Ynez.*

Pio Pico, Gobernador Constitucional, del Departmento de Californias:

{ Gobierno del Depto. [EAGLE.] De Californias. }

Por cuanto los Señores Don José Maria Covarrubias y Don Joaquin Carrillo se presentaron à este Gobierno, solicitando se les dé
154 en legitima posesion la Mision de Santa Ynez con los pocos terrenos que le quedan y debidamente le corresponden lo mismo que las demas existencias que tenga, en pago de siete mil pesos con que han auxiliado à este Gobierno para sus urgencias, à mas de quedar obligados à proporcionar de su cuenta particular lo necesario para la subsistencia decente del Reverendo Padre Ministro que allí hubiera y sosten para la conservacion del culto divino; teniendo en consideracion los servicios de estos Señores, particularmente el primero que siempre se ha prestado gustoso à ayudar al Gobierno, y que asi mismo se les seguirán perjuicios por las cantidades que han facilitado, y atendiendo al estado ruinoso de dicho establecimiento; he venido en conceder a los expresados Señores Covarrubias y Carrillo la mencionada Mision de Santa Ynez, con todas sus pertenencias, exceptuando las casas que sirven de habitacion al R'do Padre, la Yglesia y demas cosas que le son afectas y reconoce proprias, como en justo pago de siete mil pesos, siendo este al presente su estimacion y no haber quien diese mas por ellas; usando pues de las facultades con que me hallo autorizado por el Supremo Gobierno Nacional, y por decreto de la Honorable Asamblea Departmental de 13 de Abril último, declaro por las presentes letras, à los Señores ante dichos, dueños

en propiedad de la repetida Mision, en los terminos que quedan estipulados, por cuya virtud podrà desde luego tomar posesion de ella.

En consecuencia, mando, que teniendose el presente titulo por una formal y valedera escritura de venta, se entregue à los interesados para su resguardo y demas fines debiendo ser reconocido y acatado por todas las autoridades civiles y militares de este Departamento, y demas de la Nacion; por lo cual, se tomarà de él la correspondiente razon.

Dado en la Ciudad de Los Angeles, en este papel comun por absoluta falta del sellado, á los quince dias del mes de Junio de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE MATIAS MORENO, *S'rio Ynt'o*

Queda tomada razon de este Superior Despacho en el libro respectivo.
MORENO.

[Translation.]

155 EXHIBIT XXXV.—*Santa Ynez.*

Pio Pico, constitutional governor of the department of the Californias:

{ Governor of Dep. [EAGLE.] of the Californias. }

Whereas Don José aria Covarrubias and Don Joaquin Carrillo have presented themselves to this government, requesting that there be given to them in legal possession the mission of Santa Ynez, with the few lands which remain to it and duly correspond to it, as also the other property which it may at present have, in payment of seven thousand dollars, with which they have assisted this government for its pressing demands, besides remaining bound to furnish on their own private account what may be necessary for the decent subsistence of the rev. father minister who may be there, and support for the continuance of the divine worship; having, in consideration of the services of these gentlemen, particularly of the first, who has always taken pleasure in assisting this government, and that they will suffer losses on account the amounts which they have furnished, and in consideration of the ruinous conditions of said establishment, I have granted to the said Señores Covarrubias and Carrillo the aforesaid mission of Santa Ynez, with all its appurtenances, excepting only the houses which serve as the dwelling of the rev. father, the the church, and other things belonging to him and recognised as private, as in just payment of seven thousand dollars, this being its present value, and there being no person who would give more for it; using, then, the powers with which I am authorized by the supreme national government and the decree of the honorable departmental assembly of the 13th of April last, I do by these presents declare the aforesaid señores owners in fee of the said mission in the terms which have been stipulated, in virtue of which they can take immediate possession of it.

156 In consequence, I order that the present title being held as a formal title and valid deed of sale, it be delivered to the persons interested for their security and other purposes, being recognised and respected by all the authorities, civil and military, of this department and others of the nation; wherefore, the corresponding note will be made of it.

Given in the city of Los Angeles, on this common paper for absolute want of stamped, on the fifteenth day of the month of June, one thousand eight hundred and forty-six.

(Signed) PIO PICO.

(Signed) JOSE MATIAS MORENO, *Secretary ad interim.*

Note has been made of this superior patent in the proper book.

(Signed) MORENO.

[Original.]

EXHIBIT XXXVI.—*San Juan Bautista.*

Pio Pico, Gobernador Constitucional del Departamento de las Californias:

{ Gobierno del Depto. [EAGLE.] De Californias. }

Por cuanto á que D. Oliviè Deleisegues ha justificado suficientemente debersele por la hacienda publica diversas cantidades q. en numerario y esquilmos ha facilitado à la guarnicion del Puerto de Monterey, á pedimento del Sor. Comte. Gral. del Departamento, y habiendo solicitado en pago de ellas la huerta del establecimiento de San Juan Bautista, con lo cual se conforma, no obstante de que el importe de su avalúo es menos que la cantidad q. se le adeuda; he venido en concederle la expresada huerta, en uso de la facultad q. me confirió la Exma. Asamblea Departamental en su acuerdo de cuatro de Julio del año proximo pasado, y de conformidad con el Reglamto. de 28 de Octubre del mismo año.

157 En consecuencia, declaro por las presentes letras, q. el mencionado D. Oliviè Deleisegues es dueño legalmente de la referida huerta de S. Juan Bautista, en pago de lo que se le adeuda; en cuya virtud tomará la posesion judicial de ella mediante este despacho.

Por tanto, mando, q. teniendose el presente por titulo firme y valedero, se tome razon de èl en el libro respectivo, y se entregue al interesado para su resguardo y demas fines.

Dado en papel comun por falta de sellado, en la Ciudad de los Angeles, á cuatro de Mayo de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE MATIAS MORENO, *Srio. Ynto.*

Queda tomada razon de este Superior Despacho en el libro respectivo.

MORENO.

SOR. ALCALDE 1°. :

Maria Concepcion Boronda, viuda de Don Oliviè Dcleisegues y como albacea y tutora de mis menores hijos, en uso de mis derechos, ante V. como mejor proceda paresco y digo, que la justificacion è integridad de V. se ha de servir mandar ampararme de la posesion, que no se le dio à mi difunto esposo, de la huerta de arboles frutales, que se halla en este pueblo al norte de la plaza principal, segun el derecho que me asiste à mi y mis pupilos en el documento que en dos fojas útiles le acompaño, y mediante tambien á ser yo la unica persona que derecho debe tener à dicha Huerta. Por tanto:

A V. suplico manda decretar de conformidad, por ser de justicia que impetro.

San Juan Bautisa, Abril 23 de 1850.

MARIA CONCEPCION BORONDA.

158 SAN JUAN BAUTISTA,
Abril 23, *de* 1850.

Por presentando y admitido, pase esta solicitud al Sor. Juez de contado, para que con vista de ella y el titulo q. le acompaña decrete si este Jusgado tiene facultades para conocer del presente negocio, y si es legal el titulo que menciona dicha solicitud, para en su vista seguir la secuela del negocio; agreguese aquel à esta por principio; asi yo el Co. Angel Lebrija Alcalde 1o. de esta Municipalidad, asi lo decretè, mandè, y firmè, con los de mi asistencia.

Doy fe, ANGEL LEBRIJA.

Asa.:

JESUS FIGUEROA.
SATURNINO CARREAGA.

Se agrego el titulo y se hizo saber á Doña Concepcion Boronda auto anterior, y enterada dijo que pide se le entregue originales las presentes pare ocurrir à Monterey como està mandado, y firmo.

C. BORONDA.

LEBRIJA.

En la fecha, y en tres fojas utiles se entregan las presentes á la parte.

Lo anoto. (Lebrija's Rubric.)

[Translation.]

EXHIBIT XXXVI.—*San Juan Bautista.*

Pio Pico, constitutional governor of the department of the Califor nias:

{ Governor of Dept. [EAGLE.] of the Californias. }

Whereas Don Oliviè Deleisegues has satisfactorily shown that the public treasury is in debt to him for sundry amounts of

159 money and effects furnished by him to the garrison of the port of Monterey at the request of the señor commandant general of the department, and having solicited in payment thereof the orchard of the establishment of San Juan Bautista, with which he is satisfied, notwithstanding the value thereof is less than the amount due him, I have concluded, by virtue of the powers vested in me by the most excellent departmental assembly in their resolution of the 4th of July of the last year past, and in conformity with the regulation of the 28th October of the same year to grant to him the orchard aforesaid.

Therefore, by these present letters, I declare the aforesaid Don Oliviè Deleisegues to be the legitimate owner of the said orchard of San Juan Bautista in payment of what is due him, in virtue whereof he will take judicial possession thereof under this patent.

Therefore, the present being held as a firm and valid title, I order it to be entered in the respective book, and that it be delivered to the interested party for his security and other purposes.

Given on common paper for the want of sealed, in the city of Los Angeles, on the fourth day of May, one thousand eight hundred and forty-six.

(Signed) PIO PICO.

(Signed) JOSE MATIAS MORENO, *Sec'y.*

Entry is made of this superior patent in the proper book.

MORENO.

Senor First Alcalde:

I, Maria Concepcion Boronda, widow of Don Oliviè Deleisegues, and as the administratrix and guardianess of my minor children, in the exercise of my rights, appear before your honor in due form, and pray:

That your honor, in your goodness and integrity, may be pleased to direct that I may be favored with the possession, which was not given to my deceased husband, of the orchard situated north
160 of the principal square of this pueblo, according to my own right and that of my wards in the document accompanied herewith on two written leaves, and also in virtue of my being the only person who should have any right to the said orchard.

Therefore I pray your honor to order a decree in conformity therewith, it being justice that I implore, etc.

San Juan Bautista, April 23, 1850.

(Signed) MARIA CONCEPCION BORONDA.

SAN JUAN BAUTISTA,
April 23, 1850.

Being presented and admitted, let this petition be referred to the hon. county judge, that after an examination thereof, and of the title accompanied herewith, he may decide whether this court has any jurisdiction over the present case, and whether the title referred to

in the said petition is legal whereupon to prosecute the continuation of the cause. Let that be annexed to and preceding this. Thus:

I, citizen Angel Lebriga, first alcalde of this municipality, decreed, ordered, and signed, with my assisting witnesses. I attest:

(Signed) ANGEL LEBRIGA.

Asst'g witnesses:

(Signed) JESUS FIGUEROA.
(Signed) SATURNINO CAREAGA.

The title was annexed, and the foregoing act was notified to Doña Concepcion Boronda, whereupon she requested that those originals be delivered to her to repair to Monterey as directed, and she signed it.

(Signed) C. BORONDA.

(Signed) LEBRIJA.

On the same day, and on three written leaves, these documents were delivered to the party.

I enter it. (Lebrija's Rubric.)

161 [Original.]

EXHIBIT XXXVII.—*San Jose.*

El Ciudadano Pio Pico, Gobernador Constitucional del Departamento de Californias:

{ Gobierno del Depto. [EAGLE.] de Californias. }

Por cuanto los Señores Don Andres Pico y Don Juan Bautista Alvarado se han presentado como compradores del Eetablecimiento ó Mision de San José, y con arreglo à la facultad concedida á este Gobierno Departamental en trece de Abril del presente año, por la E. Asamblea, y en uso de las que me concede el Supremo Gobierno General, á nombre de la nacion Mejicana, y de conformidad con la ley de 18 de Agosto de 1824, y reglamento de 21 de Noviembre de 1828; he venido en declarar, como declaro á los expresados Señores dueños en propiedad del dicho establecimiento y bajo las condiciones siguientes:

1a. Pertenece, en venta real y personal para siempre jamas à los señores Don Andres Pico y Don Juan Bautista Alvarado, el Establecimiento ó Mision de San José, con sus terrenos, bienes raices y sobrevientes, y demas muebles existentes, confor me al inventario hecho por la comision que nombró este Gobierno.

2a. Se exceptuan de esta venta la casa cural, que consta de seis piezas con el local que á ella pertenece ó le està señalada quedando á beneficio del R. P. Misionero.

3a. Pagarán los expresados Señores Pico y Alvarado al Gobierno Departamental, por la venta del relacionado establecimiento ó Mision de San José, la cantidad de doce mil pesos en metalico como valor

convenido en contrata formal, quedando á su beneficio las cantidades que se le deban al dicho establecimiento, asi como tambien pagaràn à los acreedores las que deba el establecimiento, pues està convenido por la presente contrata que serà de su precisa obligacion el chancelar aquellas cuentas de una manera definitiva.

162 4a. Podran los interesados cerrar, cercar ò acotar sus terrenos sin perjudicar las travesias, camios y servidumbres; lo disfrutarán libre y exclusivamente, haciendo de èl, el uso que mejor les conviniera á su aprovechamiento.

5a. Pediràn los interesados, al Juez que corresponda, la posesion judicial de dicho establecimiento en virtud de este titulo por la cual se les demarcaràn los linderos con las mojoneras de estilo, quedando en la precisa obligacion de levantar el respectivo diseño y agregarlo al presente Titulo.

Por tanto, mando, que el presente Titulo se tenga por firme y valedero, sirviendo de autentica escritura para la seguridad de los referidos compradores. Se tome razon de èl en el libro à que corresponda, y se les entregue à los interesados para su resguardo y demas fines.

Es dado en la Ciudad de Los Angeles, Capital del Departamento de Californias, en papel comun por falta de sellado, à los cinco dias del mes de Mayo del año de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE MATIAS MORENO, *Srio. Ynt'o.*

Queda tomada razon de este Superior Despacho en el libro respectivo.

MORENO.

[Translation.]

EXHIBIT XXXVII.—*Title to San Jose mission.*

Citizen Pio Pico, constitutional governor of the department of Californias:

{ Governor of the Dep. [EAGLE.] of the Californias. }

Whereas, Señores Andres Pico, and Juan Bautista Alvarado have appeared as purchasers of the establishment or mission of San Josè, and in accordance with the power vested in this departmental government on the 13th day of April, of the present year, by th

163 excellent assembly, and in exercise of those conferred on by the supreme general government, in the name of the M ican nation, and in conformity with the law of the 18th of Aug 1824, and the regulations of the 21st November, 1828, I have the proper to declare, as I do declare, the aforesaid señores owne , in fee simple of said establishment, and under the following conditions:

1st. The establishment or mission of San José belongs to Señores Andres Pico and Don Juan Bautista Alvarado, by title of real and personal sale, in perpetuity, together with its lands, real estate, live stock, and other existing movables, according to the inventory made by the commissioners appointed by this government.

2d. There is excepted from this sale the parsonage, consisting of six rooms, with the ground thereto belonging or assigned, the same being for the benefit of the reverend missionary father.

3d. Said Señores Pico and Alvarado shall pay to the departmental government for the sale of the said establishment or mission of San José, the sum of twelve thousand dollars in cash, as the value agreed by formal contract, having for their benefit the sums due said establishment. They shall also pay to the creditors the sums which said establishment may owe, as it is agreed by the present contract that they shall be bound to cancel those accounts in a definite manner.

4th. The parties interested may enclose, fence, or set bounds to their lands, without interfering with the cross-roads, highways, and easements, (servidumbres.) They shall enjoy it freely and exclusively, putting it to the use which may most conduce to their profit.

5th. The parties interested shall ask of the proper judge the judicial possession of said establishment by virtue of this title, by whom the boundaries shall be marked out with the customary landmarks, they being bound to make the corresponding plan and attach it to the present title.

Therefore, I order that the present title be held as firm and valid; serving as an authentic deed for the security of the said purchasers, that it be recorded in the proper book, and delivered to the
164 interested party for their security, and other purposes.

Given in the city of Los Angeles, capital of the department of the Californias, on common paper, there being none stamped, on the 5th day of May, in the year one thousand eight hundred and forty-six. PIO PICO.

JOSE MATIAS MORENO, *Secretary pro tem.*

Note of this superior title has been made in the respective book.
MORENO.

[Original.]

EXHIBIT XXXVIII.—*Mision de la Soledad.*

Office of the U. S. Suv'r Gen'l, California. State papers, vol. xi, Missions, 1830—1846, p. 955.

El cuatro de Enero de 1846, se vendiò à Dn. Feliciano Soberanes la Fabrica de la Mision de la Soledad, que se compone de una sala y res cuartos, asi como la huerta y viña de la expresada ex-Mision, en cantidad de ochocientos y mas pesos que le adeuda la hacienda blica por suministros que hizo à las divisiones de los Senores Codantes, Generales Dn. Manuel Micheltorena y Dn. José Castro; la misma fecha se le extendio el titulo de propiedad.

ico, Vocal Decano de la Asamblea Departamental y Gobernador Provisional de las Californias:

bierno del Depto. [EAGLE.] De Californias.

or cuanto Dn. Feliciano Soberanes ha pretendido comprar para

su beneficio personal y el de su familia la fabrica de la ex-Mision de la Soledad que se compone de una sala y tres cuartos, el terreno, la huerta, y la viña de la expresada ex-Mision, mediante la can-
165 tidad de ochocientes y mas pesos que le adeuda la hacienda publica y nacional por suministros que hizo à las divisiones de los Señores Comandantes Generales, Don Manuel Micheltorena y Don José Castro; en uso de las facultades que me confirio la Exma. Asèmblea Departmental en su acuerdo relativo de 4 del Julio del año pasado de 1845, y considerando que lo perteneciente à la ex-Mision de la Soledad se encuentra en un estado de ruina y abandono, declaro por las presentes letras, que el mencionado Don Feliciano Soberanes es dueño legalmente, y legitimo comprador de las expresadas fabrica, tierra, huerta y viña de la ex-Mision de la Soledad, mediante cesion que el repetido Soberanes hace à favor de la Nacion de mencionada cantidad de ochocientos y mas pesos que le adeuda la hacienda publica; pudiendo, desde ahora y en virtud de este despacho, tomar la posesion de dichas fabricas, tierra, huerta y viña; en la inteligencia que se excluye la Yglesia de dicha ex-Mision, la que quedarà à disposicion del Ylmo. Señor Obispo. El terreno que en virtud de las presentes letras pasa à la propiedad del Señor Soberanes, es de la extension de dos sitios de ganado mayor y colinda por la parte del norte con tierras del Rancho de Lugo, y por el sur con un aliso que està inmediato al arroyo seco.

Por tanto, mando que teniendose el presente por titulo firme y valedero, se tome razon de èl en el libro de asientos sobre adjudicaciones de terrenos valdios, y se entregue al interesado para su resguardo y demas fines. Dado en la Ciudad de Los Angeles, en este papal comun por falta absoluta del sellado, à cuatro de Enero de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE MA. COVARRUBIAS, *S'rio.*

Queda tomada razon de este titulo en el libro respectivo. Angeles fecha *ut supra.*

COVARRUBIAS.

166 [Translation.]

EXHIBIT XXXVIII.—*Mission of La Soledad.*

On the fourth of January, 1846, was sold to Don Feliciano Sob
anes, the building of the mission of La Soledad, embracing one
lor and three rooms, as well as the orchard-garden and vineyar
the aforesaid ex-mission, for the sum of eight hundred and od
lars due him from the public revenue for supplies that he furn
to the divisions of the Commanders General Don Manuel Michelt
and Don José Castro; and on the same day the deed of own
was granted to him.

Pio Pico, senior member of the departmental assembly, and provisional governor of the Californias:

{ Governor of Dep. [EAGLE.] of the Californias. }

Whereas Don Feliciano Soberanes has solicited to purchase, for his personal benefit and that of his family, the building of the ex-mission of La Soledad, comprising a hall and three rooms, the land, orchard, and vineyard of said ex-mission, for the sum of eight hundred and odd dollars, owing to him by the public and national revenue, for supplies furnished by him to the divisions of Commandants Generals Don Manuel Micheltorena and Don José Castro:

In virtue of the powers conferred upon me by the most excellent departmental assembly by its decree respecting the matter dated July 4th of last year, 1845, and considering that the property belonging to the ex-mission of La Soledad is in a state of ruin and abandonment, I do declare by these present letters that the said Don Feliciano Soberanes is the legal owner and legitimate purchaser of the said building, land, orchard, and vineyard of the ex-mission of La Soledad in consideration of the cession which said Soberanes makes in favor of the nation of the said amount of eight hundred and odd dollars, owing to him by the public revenue, he being at liberty from this date, and by virtue of this title, to take possession of
167 said buildings, land, orchard, and vineyard, it being understood that the church is excluded, this being left to the disposal of the most illustrious bishop.

The land which is transferred to the ownership of Señor Soberanes by virtue of these present letters is of the extent of two square leagues, (sitios de ganada mayor,) and is bounded on the north by lands belonging to Lugo's rancho; on the south by an alder tree, situated near the Arroyo Seco.

I therefore command that, these presents being held as a firm and valid title, a record thereof be made in the book of entries respecting the adjudication of vacant lands, and be delivered to the party interested, for his security and further ends.

Given in the city of Los Angeles, on this common paper, on account of the absolute want of sealed paper, on this fourth day of January, A. D. 1846.

(Signed) PIO PICO.

(Signed) JOSE MA. COVARRUBIAS, *Sec'y.*

record of this title has been made in the respective book.

COVARRUBIAS.

[Original.]

EXHIBIT XXXIX.—*Mision de San Rafael.*

ico, Gobernador Constitucional del Departamento de Californias:

bierno del Depto. [EAGLE.] De Californias.

or cuanto los Señores Antonio Suñol, Antonio Ma. Pico se pre-

sentaron à este Gobierno solicitando se les dé en legitima posesion la Mision de San Rafael con los terrenos que le pertenencen en pago de ocho mil pesos con que han auxiliado al mismo Gobierno para
168 urgencia à mas de quedar obligados à pagar à los acreedores las deudas que tenga el establecimiento en los terminos mas oportunos; teniendo en consideracion los perjuícios que los interesados han tenido por el estado de la satisfacion de aquella deuda, y que las fincas estando en un abandono total no pagarian á los dichos acreedores, he venido en concederles à los expresados Señores la mencionada Mision con sus pertenencias exceptuando las casas que sirven de habitacion al Padre, La Yglesia y sus pertenencias; usando pues de las facultades con que me hallo autorizado por el Supremo Gobierno Nacional y por decreto de la Honorable Asamblea Departamental de fecha trece de Abril de este año, declaro por las presentes letras à los Señores ante dichos dueños en propiedad de la referida Mision en los terminos que quedan estipulados.

En consecuencia mando, que teniendose el presente titulo por firme y valedero, se tome razon de èl en el libro à que corresponde, y se entregue à los interesados para su resguardo y demas fines.

Dado en la Cuidad de los Angeles, en papel comun por no haber sellado, á los ocho dias del mes de Junio de mil ochocientos cuaranta y seis.

(Signed) PIO PICO.

(Signed) JOSE MATIAS MORENO, *Srio. Ynto.*

Queda tomada razon de este Superior Despacho en el libro respectivo.

(Signed) MORENO.

169 [Translation.]

EXHIBIT XXXIX.—*Mission of San Rafael.*

Pio Pico, constitutional governor of the department of the Californias

{ Government of Dep. [EAGLE.] of the Californias. }

Inasmuch as Señores Antonio Suñol and Antonio María Pico hav presented themselves to this government, soliciting that legal posse sion may be given them of the mission of San Rafael, with the la belonging thereto, in payment of eight thousand dollars, with w they have assisted the said government, in its necessities, be binding themselves to pay the creditors the debts due by the e lishment in the most opportune manner; taking into conside the injuries which the said parties have sustained from the no ment of the said debt, and the said property being in such a st ruin that it would not pay the said creditors, I have determin granting to those gentlemen the said mission and its appurtena except the houses which serve the priest for dwelling in, and

church and its appurtenances; exercising, therefore, the powers with which I am invested by the supreme national government and by the decree of the honorable departmental assembly bearing date the thirteenth day of April of this year, I declare, by these presents, the aforesaid señores owners in their own right of the said mission on the terms stipulated.

Consequently, I order that the present title being held for firm and valid. note of it be taken in the corresponding book and afterwards it be delivered to the said señores for their security and other purposes.

Given at the city of Los Angeles, on common paper from there being none sealed, the eighth day of the month of June, one thousand eight hundred and forty-six.

(Signed) PIO PICO.

JOSE MATIAS MORENO, *Secretary ad interim.*

170 Note has been taken of this gubernatorial document in the respective book.

(Signed) MORENO.

[Original.]

EXHIBIT XL.—*Huerta de la mission de Santa Clara.*

Pio Pico, gobernador constitucional del departam'to de Californias:

{ Gobierno del Depto. [EAGLE.] De Californias. }

Autorizado previamente por la Exma. Asamblea Departamental para la enagenacion de las Misiones à fin de evitar la total ruina de ellas, y proporcionar al gobierno recursos que de pronto necesita para atender à sus urgencias, y en vista de la solicitud de los ciudadanos Juan Castañeda, Luis Arenas, y Benito Diaz, en que pretenden comprar la huerta de arboles frutales de la Mision de Santa Clara, con las casas que le son anexas, ubicada al frente del establecimiento; usando de las facultades con que me hallo investido per el Supremo Gobierno Nacional y Decreto de la expresada Honorable Asamblea de 13 de [illegible]bril ultimo; he venido en hacer venta y enagenacion perpetua de la Se[illegible] presada huerta à los referidos Señores Juan Castañeda, Luis Arecim[illegible] y Benito Diaz, en la cantidad de mil doscientos pesos, que han seme[illegible]do, y recibido este Gobierno à su satisfacion, de conformidad con [illegible]alúo que de ella hizo la Comision de Misiones, el que he tenido Pio [illegible] moderar por el demerito en que actualmente se halla la referida [illegible]a.

{ Gol[illegible] para la debida constancia en todos tiempos, doy este documento, en formal escritura, que serà reconocido y acatado por todas las idades civiles y militares de la Nacion, en este y en los demas rtamentos, y aun por el Gobierno General, autorizado debida- P[illegible]te con mi firma y la del Secretario de mi Despacho.

En consecuencia mando que, teniendose el presente titulo
171 por firme y valedero, se tome razon de èl en el libro que corresponda, y se entregue à los interesados para su resguardo y usos que les convenga.

El Jues respectivo, en vista de este titulo, los pondrà en posesion de la mencionada huerta, de que les harà formal entrega el encargado del establecimiento, à quien seà librarà orden al efecto.

Dado en la Ciudad de Los Angeles, en papel comun por falta de sellado, à los trienta dias del mes de Junio, de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE MATIAS MORENO, *Srio. Ynto.*

Queda tomada razon de este Superior Despacho en el libro respectivo.
(Signed) MORENO.

[Translation.]

EXHIBIT XL.—*Orchard of the mission of Santa Clara.*

Pio Pico, constitutional governor of the department of the Californias:

{ Government of dept. [EAGLE.] of the Californias. }

Having been previously authorized by the most excellent departmental assembly, to alienate the missions for the purpose of preventing their total ruin, and to provide for the government means which it needs immediately to meet its urgent necessities, and in view of the petition of the citizens Juan Castañeda, Luis Arenas, and Benito Diaz, in which they propose to purchase the orchard-garden of the mission of Santa Clara with the houses pertaining to it, situated in front of the establishment; using the powers in me vested by the supreme government of the nation, and the decree of
172 the said honorable assembly of the 13th of last April, I have hereby made sale and perpetual alienation of the said orchard-garden to the said Señores Juan Castañeda, Luis Arenas, and Benito Diaz, for the sum of one thousand two hundred dollars, which they have paid and which this government has received in full satisfaction therefor, in conformity with the appraisement of the same by the committee on missions, which I have thought proper to diminish, on account of the bad condition in which the said orchard-garden now is.

And for the proper authentication thereof hereafter forever, I give this document as a formal deed, which shall be recognised and respected by all the civil and military authorities of the nation, in this and in the other departments, and also by the general government, duly attested with my own signature and that of my secretary of state.

In consequence, I order that the present title being held firm and valid, an entry thereof be made in the proper book, and it be delivered to the persons interested for their own security and convenient purposes.

The proper magistrate, on presentation of this title shall put them in possession of the said orchard-garden, a formal delivery of which

will be made to them by the person in charge of the establishment, to whom orders to that effect will be issued.

Given in the city of Los Angeles, on common paper for want of stamped, on the thirtieth day of the month of June, one thousand eight hundred and forty-six.

(Signed) PIO PICO.

(Signed) JOSE MATIAS MORENO, *Sec'y ad interim.*

An entry of this superior despatch has been made in the respective book.

(Signed) MORENO.

173 [Translation.]

EXHIBIT XLI.

MINISTRY OF WAR AND MARINE,
Section of Principal.

EXCELLENCY: To the general commander of California, I this day communicate as follows:

"The preparations which the United States are making, and the approach of the naval forces towards our ports, leave no doubt that war with that power is about breaking out, and as his excellency the President *pro tem.* is resolved to sustain the rights of the nation, he wishes that in all the ports of the republic where the enemy may present itself, a rigorous defence be made, capable of giving honor and glory to the national flag. For that object and until the supreme government appropriates and sends you the necessary means, it relies upon your patriotism and fidelity to dictate the measures which you may judge necessary for the defence of that department, for which purpose you and his excellency 'are invested with full powers.'

And I have the honor to transcribe the same to you, for your cognizance, hoping that you on your part, will leave no efforts to preserve entire the rights of the nation.

God and liberty. Mexico, March 10, 1846.

TORNEL.

To his excellency the governor of
the department of the Californias."

This is a true copy of the original which remains in my possession, and to which I refer.

Angeles, September 30, 1852.

(Signed) PIO PICO.

174 [Original.]

EXHIBIT XLII.—*Titulo VII.—Gobierno de los departamentos.*

(Extract of Mexican Constitution of 1843.)

Articulo 134. Son facultades de las Asambleas Departamentales:

1a. Establecer arbitrios para completar sus gastos ordinarios, ó para hacer los extraordinarios que determinen segun sus facultades, con

aprobacion del Congreso, sin perjuicio de llevarlos á efecto inmediamente que los decreten. El Presidente de la República puede suspender la ejecucion de estos arbitrios, dando cuenta sin demora al Congreso.

2a. Arreglar la inversion y contabilidad de la hacienda del departmento.

3a. Crear los empleados necesarios para la recaudacion y distribucion de la hacienda departmental, asignarles sus dotaciones. y reglamentar las obligaciones de los empleados.

4a. Crear fondos para establecimientos de instruccion, utilidad ó beneficencia publica, con los requisitos designados en la atribucion primera.

5a. Decretar lo conveniente, y conforme à las leyes, respecto de la adquisicion, enagenciones y permutas de bienes que pertenezcan al comun del departamento. Sobre enagenciones de terrenos se observaràn las leyes vigentes, y lo que determinen las de colonizacion.

6a. Disponer la apertura y mejora de los caminos del Departamento, y cuidar de su conservacion, estableciendo en ellos peages para cubrir sus costos; entendiéndose esta atribucion sin perjuicio de lo que dispongan las leyes sobre caminos generales.

7a. Fomentar la enseñanza pùblica en todos sus ramos, creando y dotando establecimientos literarios, y sujetàndose à las bases que diere el Congreso sobre estudios preparatorios, cursos, exàmenes y grados.

8a. Crear y reglamentar establecimientos de beneficencia, correccion ó seguridad.

17 9a. Reglamentar el contingente de hombres que para el ejèrcito deba dar el departamento.

10a. Hacer la division política del territorio del departamento, establecer corporaciones y funccionarios municipales, expedir sus ordenanzas respectivas, y reglamentar la polcía municipal, urbana y rural.

11a. Cuidar de la salubridad pública y reglamentar lo conveniente para conservarla.

12a. Fomentar la agricultura, industria, y demas ramos de prosperidad, segun sus facultades.

13a. Aprobar los planes de arbitrios municipales, y los presupuestos anuales de los gastos de las municipalidades.

14a. Establecer y organizar los tribunales superiores y jusgados inferiores, respetando la propiedad de los actuales magistrados y jueces, y reglamentar el ejercicio de sus funciones, sin alterar el órden de procedimientos que disponen ó dispusieren las leyes.

15a. Hacer al Congreso iniciativas de ley en uso de la facultad que les da el Arto. 53.

16a. Consultar al Gobernador en todos los asuntos en que este lo exiga, y tambien en los que deba hacerlo conformé à estas bases, y à las leyes.

17a. Proponer al Gobierno Supremo una lista de todas las personas que le parezcan à propósito, y que no sean menos de cinco, para el nombramiento de Gobernador. En los departamentos fronterizos no tendrà obligacion el Gobierno de sujetarse à esta lista, y sucederà lo

mismo cuando en algun otro departamento, y en caso extraordinario, lo acordare el Congreso por iniciativa del Presidente.

18a. Hacer las elecciones segun estas bases, de Presidente de la Republica, individuos de la Suprema Corte de Justicia y Senadores.

19a. Decretar la fuerza de policía que debe haber en el Departamento y reglamentar su servicio, que se reducirá à conservar el orden, cuidar de la seguridad pública, y auxiliar la ejecucion de los mandatos de las autoridades políticas y judiciales. Esta fuerza no gozará fuero, y deberà estar distribuida en las poblaciones con proporcion a sus necesidades.

176 [Translation.]

EXHIBIT XLII.—*Title VII.—The government of the departments.*

Article 134. The powers of the departmental assemblies are:

1st. To establish the means of meeting their ordinary expenditures, or of making those that are extraordinary, which they may direct according to their powers, with the approbation of the congress, without prejudice to carry them into effect immediately after they shall be decreed. The president of the republic may suspend the execution of these means, giving notice, without delay, to congress.

2d. To regulate the receipts and accounts of the treasury of the department.

3d. To appoint the necessary officers for the collection and paying out of the departmental revenue, fix their salaries, and regulate the duties of the officers.

4th. Create funds for the establishment of education, utility, or public benevolence, with the requisites designated in the 1st article.

5th. To decree what may be proper (and conformable to the laws) respecting the acquisition, alienations, and exchanges of the property that may belong to the community of the department. With regard to the alienation of lands, they shall observe the existing laws, and whatever is decreed by the laws of colonization.

6th. To direct the opening and improvement of the roads of the department, and take care of their preservation, establishing thereon toll-gates to cover their cost. This power, it is well understood, without prejudice to what the laws respecting general roads may direct.

7th. Encourge public instruction in all its branches, creating and donating literary institutions, and subjugating them to the regulations called for by congress respecting preparatory studies, courses, examination and grades.

8th. Create and regulate establishments of benevolence, correction, or security.

177 9th. Regulate the contingent of men which the department should furnish the army.

10th. Make the political division of the territory of the department, establish corporations and municipal officers, furnish their respective ordinances, and regulate the municipal city and county police.

11th. Take care of the public health, and make the proper regulations to preserve it.

12th. Encourage agriculture, industry, and other sources of prosperity, according to their powers.

13th. Approve the plans of the municipal expedients and the annual estimates of the expenses of the municipalities.

14th. Establish and arrange the superior tribunals and inferior justices' courts, respecting the authority of the actual magistrates and judges, and regulate the exercise of their functions, without altering the order of proceedings that the laws direct, or shall direct.

15th. To make suggestions of laws to congress, according to the power given by article 53.

16th. Advise the governor in all matters, when he shall demand it, and likewise in those when they should do it conformable to these bases and to the laws.

17th. Propose to the supreme government a list of all the persons that may appear to them fit, and which shall consist of not less than five, for the appointment of governor. In the frontier departments the government shall not be obliged to conform itself to this list, and this shall follow when in any other department, and in any extraordinary case congress shall grant it upon the application of the president.

18th. To make the elections of the president of the republic, members of the supreme court of justice, and senators, according to these basis.

19th. To decree the police force which the department should have, and to regulate its duty, which shall be confined to preserving order, taking care of the public safety, and aiding the execution of the mandates of the political and judicial authorities. This force shall not enjoy any privileges, and shall be distributed among the population according to their necessities.

178 EXHIBIT XLIII.

JOSEPH S. ALEMANY, Bishop, etc.
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioner is valid for the land hereinafter specifically described, and the same is therefore hereby comfirmed to him to hold the same in the capacity and for the uses set forth in his petition; and as to the remaining portion of the premises claimed in the petition, it is adjudged that the claim for the same is not valid, and the same is rejected.

The lands of which confirmation is hereby made, are as follows, to wit:

The land known as the Cañada de los Pinos or college ranch, situated in the county of Santa Barbara, and bounded and described as follows:

Beginning on the north bank of the river Santa Ynez, in front of the Cañada, called by the Indians, "Acmamiquiamè," which south

of the river forms the boundary of the Messrs. Carrillo and Yansen; and on the west of the mission of Santa Ynes there is a marked *alamo*, that serves as a landmark; thence running easterly along the bank of the river, sixteen thousand five hundred varas, terminating at the "Cañada de Aquichumo," where a tree was marked as a bound when the judicial measurement of this land was given by Nicolas A. Den; thence running north sixteen thousand varas to the Sierra de San Rafael; and commencing again at the place of beginning for the western line of said tract of land; the same runs thence north fifteen thousand one hundred varas, till reaching the boundary of the Neophyte Antonio; and thence in an easterly direction to the northern termination of the line, secondly above described, which constitutes the eastern line of said land; excepting and reserving from the premises above described, such portions of said land as belongs to individual neophytes or others, at the time juridcal possession was
179 given on the 14th day of April, 1845; being the same premises described in two grants thereof made by Governor Micheltorena, one on the 16th day of March, and the other on the 26th day of September, 1844, and more particularly described in the testimonial of juridical measurement above mentioned, both of which are on file in this case, and are to be referred to for more particular description of said premises.

The land known as the rancho "Laguna," situated in the county of San Luis Obispo and near the mission of that name, and bounded and described as follows, to wit:

Commencing at some large rocks, which are at the skirt (falda) of the second serro, which forms the "Cañada de los Osos," and running thence in a southwesterly direction along the boundary of Don Maximo Pacheco, on the level land of the Cañada and the lateral hills of the "Cerro de la Majada" five thousand varas; thence southeasterly along the range of hills and the sierra five thousand varas to the mouth of the "Cañada de San Miguelito," designating at that point as a boundary the same mark that designates the boundary of Don Miguel Abila; thence in a northeasterly direction along the skirts of the hills on the same line of the boundary of Don Victor Linares, and in the same direction along the plain to the stone fence in front of the laguna at the point of centre between the two cerros which form the entrance to the plain southwest of the principal building of San Luis Obispo, said line being five thousand varas in length; thence northwesterly along the foot of the two cerros and the edge of the plain in which the lake ("laguna") is situated, five thousand varas to the point of commencement, containing one square league of land—being the same land described in the testimonial of juridical measurement thereof, made by the alcalde, Tomas X. Herrera, September 23, 1845, which is on file in this case, and to which reference is to be had.

The church and the buildings adjoining thereto, erected on three sides of a quadrangle, and constituting the church and mission buildings of the ancient mission of San Diego, in San Diego county, together with the land on which the same are erected, and the cur-

tilage and appurtenances thereto belonging, and the cemetery
180 adjoining the same, and also a garden, situated south of the buildings abovementioned and a short distance therefrom, enclosed with an adobe wall, and known as the garden of said mission; the said premises being the same designated as "church buildings" and "garden," in the delineation thereof on map numbered one, in the atlas marked "Exhibit No. 1, A. F.," and annexed to the deposition of James Alexander Forbes, filed in this case Nov. 29, 1854, reference to be made thereto for a further description.

The church and the building adjoining thereto, built in a quadrangular form, and constituting the building known as the church and mission buildings of the mission of San Luis Rey, situated in San Diego county, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging, and the cemetery adjoining the same, enclosed with a stone wall and the wall of the church; also the enclosed gardens, one of which is situated nearly south from said quadrangle, and is enclosed by an adobe wall, with the exception of a small portion on the western side, where the enclosure is of branches or sticks; the other is situated in a direction about northwest from said quadrangle, and is enclosed by an adobe wall, said gardens being the same which were formerly used by the priest having charge of said mission. The property above described is the same delineated on map numbered two in the atlas above referred to.

The church and the building nearly adjoining thereto, built in a quadrangular form, which are known as the church and mission buildings of San Juan Capistrano, situated in Los Angeles county, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging, and the enclosed cemetery which adjoins the same; also two enclosed gardens, known as the gardens of said mission, both being within five hundred yards of said buildings, and in an easterly and southeasterly direction therefrom, and being the same which are delineated and designated as "orchard" and "orchard and garden," on map numbered three, in the atlas abovementioned.

The church and the buildings adjoining thereto, which are known
181 as the church and mission buildings of the ancient mission of San Gabriel, situated in Los Angeles county, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging, and the cemetery, enclosed with an adobe wall, and adjoining said church; also an orchard and garden, situated in front and south of said church, at a distance of some seventy or eighty feet from the same, as the same is enclosed with adobe walls and a fence, being the same which was long used by the padres of said mission, and the same laid down on the map numbered four in the atlas beforementioned, as "orchard" and "garden;" also a vineyard, which was used by the said padres as such, situated in a northerly direction from said church, at the distance of about sixteen chains therefrom, and is bounded on the west by a road, and on the other side by an adobe wall and fence, being the same tract of land which is delineated and marked "vineyard" on said map.

The church and the buildings adjoining thereto, erected in the form of a quadrangle, constituting the building known as the church and mission buildings of the mission of San Buenaventura, situated in Santa Barbara county, together with the land on which the same are erected, and that included within said quadrangle, and the curtilage and appurtenances thereto belonging, and the cemetery enclosed by an adobe wall and adjoining the church. Also, a garden, situated southwest of said quadrangle, and at the distance of about one hundred feet from said cemetery, enclosed by an abode wall, being the same used and occupied by the priests of said mission, and the same delineated on map numbered five in the atlas aforesaid, and therein designated by the words "garden and orchard."

The church and the buildings adjoining thereto, built in a quadrangular form, and the house connected with the same by a yard at the southwest corner of said quadrangle, which are known as the church and mission buildings of the mission of San Fernando, situated in the county of Los Angeles, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging, and the cemetery inclosed with an adobe wall and adjoining said church.

The church and the buildings adjoining the same, built in a quadrangular form, and constituting the church and mission buildings of the mission of Santa Barbara, situated in the county of Santa
182 Barbara, together with the land on which the same are situated, and the curtilage and appurtenances thereto belonging, and the cemetery as enclosed by a stone wall, and adjoining said church, and including the small chapel standing within the limits of said cemetery. Also, a garden known as the mission garden, situated at the distance of about four chains from the most southern part of said quadrangle, the same being enclosed on all sides by an adobe wall, and being the same occupied and used by the priests of said mission. Also, a vineyard situated about twelve miles west of said mission buildings, the fence enclosing the same constituting the boundaries thereof, and being the premises occupied and used many years by the priests of said mission, and well known as the "mission vineyard." The garden and vineyard intended to be confirmed by this decree are the same delineated on the map numbered seven in the atlas before referred to, under the designations of "garden, 16 a, 3 R, 2 P," and "vineyard, 8 a, 8 R, 2 y," and denominated "San José."

The church and the buildings adjoining thereto, erected in the form of a quadrangle, and constituting the church and mission buildings of the ancient mission of Santa Ynes, situated in Santa Barbara county, together with the land on which the same are erected, and curtilage and appurtenances thereto belonging, and the cemetery, as the same is enclosed with its adobe walls, and which adjoins said church. Also a tract of land, situated in an easterly direction from said quadrangle, at a distance of about eight chains therefrom, known as the mission garden, and long occupied by the priests of said mission, with the boundaries as the same is enclosed by fences,

and the same is delineated on map numbered eight, in the atlas before mentioned, and there denominated "orchard and garden."

The church and building occupied as a dwelling adjoining it constitutes the church and mission buildings of the mission of La Purisima, situated in Santa Barbara county, together with the land on which the same are erected, and the court-yard fenced in adjoining the buildings in the rear, and the curtilage and appurtenances thereto belonging, and also the cemetery belonging to the said mission, with the limits as established by the adobe wall by which the same
183 is surrounded, including, however, within the limits the land covered by the old church now in ruins. Also, a garden situated about half a mile northwest of said building, known as the mission garden, with the fence by which the same is enclosed for its boundaries, being the same which is delineated on map numbered nine in the atlas before referred to, on which it is designated by the word "orchard."

The church and the buildings adjoining thereto erected in the form of a quadrangle, constituting the building known as the church and mission buildings of the mission of San Luis Obispo, in San Luis Obispo county, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging, and the cemetery adjoining said church, with the boundaries as enclosed by the adobe wall surrounding the same. Also two gardens, known as the mission gardens, and long occupied by the priests of said mission; one of which is situated to the northwest, and the other to the east of said quadrangle, the boundaries thereof being the wall and fence by which the same are enclosed, and including in the latter the passage-way from the mission building to the entrance of the garden as now used. The two gardens are the same as delineated on the map numbered ten, in the atlas above referred to, and the same described in a grant thereof made by Governor Micheltorena, to the rectors of the church of said mission, on the 16th day of July, 1844, to which (being on file in this case) reference is to be had.

The church and the buildings adjoining the same built in the form of two quadrangles, nearly completed, constituting the church and buildings known as the church and mission buildings of the mission of San Miguel, situated in San Luis Obispo county, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging, and the cemetery adjoining said church and buildings, with the boundaries as enclosed by the adobe walls which surround the same; also a vineyard, situated in a northeasterly direction, and at the distance of about three miles from said church, known as the mission vineyard, and called "La Mayor," embracing the land within the limits as they have been known within the enclosure,
184 and as fenced and cultivated by the priests of said mission. being the same premises described in a grant thereof to the rector of the church of said mission by Governor Micheltorena, July 16th, 1844, to which (being on file in the case) reference is to be had.

The church with the buildings which adjoins the same, and those which are situated in immediate proximity thereto, constituting parts

of the quadrangle in which said buildings are arranged, which together are known as the church and mission buildings of the mission of San Antonio, situated in the county of San Louis Obispo, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging. Also the cemetery belonging to said mission, and enclosed in adobe walls, and situated a short distance from said quadrangle in a southwesterly direction. Also the vineyard known as the mission vineyard, situated in a southwesterly direction from said church, including the premises enclosed with the adobe walls surrounding the same, being the same delineated on map numbered twelve, in the atlas above mentioned, and designated thereon as the "vineyard." Also the premises known as the garden of said mission, situated at the northeast of the church and buildings aforesaid, and contiguous to them, with the adobe wall surrounding the same for its boundaries; being the premises delineated on the said last-mentioned map, and designated thereon by the word "orchard." Also the flour mills of said mission, erected and occupied by the priests of the said mission, situated about five chains northerly from said vineyard, with the privileges and appurtenances belonging thereto, reference for a more particular description whereof is to be had to the delineation of the same on said map.

The church and the buildings adjoining the same and extending east of it, being the same known as the church and mission buildings of the mission La Soledad, situated in Monterey county, together with the land on which the same are erected, and the enclosure, curtilage, and appurtenances thereto belonging; and also the cemetery near said church and on the west of it, with the limits as defined by the adobe wall which encloses the same. Also the garden of said mission, situated at the west of said church, with the limits as enclosed by an ancient hedge-fence of willows, and an old adobe wall, being
185 the same used and occupied for many years by the priests of said mission, and the same delineated on map numbered thirteen, in the atlas before referred to, under the designation of "orchard." Also a vineyard known as the "mission vineyard," situated about three miles and a half southwest of said mission buildings; the same being situated in a cañada, having for its limits, on the north, south, and west, the precipitous sides thereof, which form a natural boundary, and enclose the same; and on the east side, the narrow gorge which forms the entrance thereto; being the same premises marked "vineyard," and delineated on the last mentioned map.

The church and the buildings adjoining the same, erected on three sides of a quadrangle, being the same known as the church and mission buildings of the mission of El Carmelo, situated in Monterey county, together with the land on which the same are erected, and curtilage and appurtenances thereto belonging; and also the cemetery adjoining to the same, with the limits as fixed and defined by the stone wall enclosing the same. Also the garden of said mission, which is situated about southeast from said church, with the limits as the same is enclosed by the hedge of willows surrounding it, being the same premises marked "orchard" on map numbered fourteen in the atlas before referred to.

The church and the buildings adjoining it, built so as to form portions of the sides of a quadrangle, enclosed on the other part with an adobe wall, constituting the church and mission buildings, with its quadrangle, of the ancient mission of San Juan Bautista, situated in Monterey county, together with the land covered by the same, and the curtilage and appurtenances thereto belonging, and the cemetery, with the extent enclosed within its walls, which adjoins said church; also the premises known as the garden of said mission, situated about three chains northeast from said church, having for its boundaries the embankment and ditch on three sides, and a hedge of willows on the fourth side, by which the same is enclosed, being the same premises laid down on map numbered fifteen in the atlas above referred to, and thereon designated by the word "orchard." Also the premises known as the mission vineyard, situated about eighty-four chains
southeast from said church, embracing the land used for many
186 years by the priests of said mission as a vineyard, and enclosed
by a ditch and the remains of an adobe wall, it being the same delineated on map numbered fifteen, and marked "vineyard."

The church and the buildings adjoining the same, constituting the church and mission buildings of the mission of Santa Cruz, in Santa Cruz county, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging, and the cemetery as the same is enclosed by its adobe walls, which adjoins said church and buildings. Also the premises adjoining said buildings and their curtilage and said cemetery, and situated to the north and east of the same, known as the mission garden, and enclosed partly by a ravine and partly by adobe walls, the same being the premises delineated on map numbered sixteen in the atlas before referred to, and there designated by the term "orchard."

The church and the building adjoining the same, built in the form of a quadrangle, and known as the church and mission buildings of the mission of Santa Clara, situated in Santa Clara county, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging, and the cemetery adjoining the same, with the limits embraced by the adobe walls surrounding it and the building above mentioned to which it adjoins. Also the premises known as the vineyard of said mission, situated on the south side of said quadrangle and adjoining said buildings, within the enclosure of the adobe walls by which it is surrounded, being the same premises delineated on map numbered seventeen in the atlas before referred to, where it is designated by the term "vineyard." Also the premises known as the garden or orchard of said mission, situated northeast from the church and distant about sixteen and a half chains, and enclosed with an adobe wall which define its boundaries, the same being delineated and represented on said map numbered seventeen by the term "orchard."

The church known as the mission church of the mission of San José, situated in the county of Santa Clara, together with the land on which the same is erected, with the curtilage and appurtenances thereto belonging, and also the cemetery which adjoins said church

on the north side thereof, embracing all the land within the
187 adobe wall which forms its exterior lines. Also the garden of said mission which adjoins said church, including the area which is surrounded by an adobe wall, excepting a portion at the northeast corner, where the boundary is a fence, being the same premises delineated and designated by the term "vineyard" on map numbered eighteen in the atlas before referred to. Also another parcel of land situated at the distance of five chains south of the premises last described, which is also known as the mission garden or orchard, the boundaries of the same being the adobe wall by which the same is enclosed, and the same premises marked "orchard" on the map last mentioned. Also the cemetery, which is situated at the west side of said church and distant about seventy-four chains from it, enclosed by an adobe wall, and being the same delineated on the map last mentioned, (in the southeast corner of said map,) and marked "cemetery."

The church and the buildings adjoining it, being the same which are known as the church and mission buildings of the mission of San Francisco, in the county of San Francisco, commonly called the mission Dolores, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging; and the cemetery adjoining according to its ancient limits and boundaries; also the premises known as the mission garden, lying in the rear of said church adjoining the same and the cemetery abovementioned, with the ancient limits and boundaries of the same as used and occupied by the priests of said mission; and also another garden of said mission, situated in front of said church and on the opposite side of the street, with the ancient limits and boundaries of the same as long used and occupied by said priests; reference for the description of these two last-mentioned parcels of land to be had to the map numbered nineteen in the atlas beforementioned, where the same is delineated, each parcel being designated by the word "garden."

The church and the buildings adjoining the same, being the same known as the church and mission buildings of the mission of San Rafael, situated in Marin county, together with the land on which the same are erected, and the curtilage and appurtenances
188 thereto belonging, and the cemetery adjoining them, with the area which is enclosed by the fence surrounding the same; also the mission garden, which is situated about ten chains in an easterly direction from said church, the boundaries thereof being the adobe wall, by which the same is enclosed, and being the same premises which are delineated on map numbered twenty in the atlas before referred to, (extending to the north, however, only to the line marked thereon "ruins of adobe walls,") and designated by the word "vineyard."

The church and the buildings adjoining the same, known as the church and mission buildings of the mission of San Francisco Solano, situated in the town of Sonoma in Sonoma county, together with the land on which the same are erected, and the curtilage and appurtenances thereto belonging; also the garden or vineyard, situated

about fourteen and a half chains from the building aforesaid, and in an easterly direction, called the mission vineyard, with its ancient limits and boundaries as occupied and used by the priests of said mission, being the same delineated on map numbered twenty-one, and designated by the word "vineyard."

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office Dec. 18, 1855.

GEO. FISHER, *Sec'y.*

UNITED STATES OF AMERICA,
State of California, southern dist. of Cal.

I, C. Sims, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing to be a true, full, and correct copy of the original as the same appears of file in my office.

In witness whereof I hereunto set my hand and affix the seal of [SEAL.] said court, this 18th day of December, A. D., 1858.

C. SIMS, *Clerk.*
Per W. W. STETSON, *Deputy.*

189 EXHIBIT XLIV.

In the district court of the United States for the southern district of California.

THE UNITED STATES *vs.* JOSEPH S. ALEMANY. } No. 388.—Trans. No. 609.

In pursuance of a notice from the Attorney General of the United States, it is hereby stipulated and agreed, that the appeal heretofore taken from the decision of the United States land commission in this case, be dismissed, and the notice of intention to prosecute said appeal be withdrawn; and that claimant have leave to proceed under the said decision of the United States land commission, heretofore rendered in his favor, as under a final decree.

P. ORD,
Dist. attorney U. S. for south. dist. of Cal.
EUGENE CASSERLY,
Attorney for J. S. Alemany, claimant.

UNITED STATES OF AMERICA,
State of California, southern dist. of Cal.

I, C. Sims, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing to be

a true, full, and correct copy of the original as the same appears of file in my office.

In witness whereof I hereunto set my hand and affix the seal of said court, this 18th day of December, A. D. 1858.

[SEAL.]

C. SIMS, *Clerk.*
Per W. W. STETSON, *Deputy.*

190 Filed in office this 21st day of April, A. D. 1859.
C. SIMS, *Clerk.*

191 Whereupon the following order was had in open court, to wit:

United States district court, south'n district of California.—December term, 1860.

LOS ANGELES, *April* 1, 1861.

SANTIAGO ARGUELLO, app'ee, *ads.*
THE UNITED STATES, applt. } No. 347.

The appellants having heretofore filed a motion for a rehearing, supported by affidavits and documentary exhibits, and the said motion having been heretofore argued by counsel for the respective parties, and taken under advisement by the court, and the court being fully advised in the premises, now here orders and adjudges that the said motion be, and the same is, overruled.

192 Intermediate term, A. D. 1862.—January 29, A. D. 1862.

United States dist. court, south. dist. Cal'a.

THE UNITED STATES, appellants, *vs.* SANTIAGO ARGUELLO, appellee. } D. C., No. 347. L. C., No. 375. Mission lands of San Diego.

And now comes Isaac Hartman, esq., special attorney for the United States in the above entitled cause, and moves the court that an appeal be granted the said United States in this cause, from the decree heretofore rendered herein by this court, to the Supreme court of the United States; which motion being heard, and by the court understood, is granted.

193 United States district court, south'n dist. of Cal'a.

CLERK'S OFFICE.

I, John O. Wheeler, clerk of the United States district court for the southern district of California, do hereby certify the foregoing sixty pages of manuscript, numbered from 1 to 60, both inclusive, as also printed exhibits, numbered from one to forty-four, and contain-

ing 135 pages, to contain a full, true, and correct transcript of the record of the proceedings, and the decision of said court, and the documentary evidence and testimony of the witnesses upon which said decision was founded, as the same appears on file and of record in my office, in the case numbered 347 upon the docket of said court, wherein Santiago Arguello is claimant against the United States for the mission lands of San Diego.

In witness whereof I have hereunto set my hand and affixed the [SEAL.] seal of said court, this twenty-ninth day of January, A. D. 1862.

JOHN O. WHEELER, *Clk.*

SUPREME COURT OF UNITED STATES.

No. 190.—December Term, 1862.

THE UNITED STATES, APPELLANTS,

vs.

SANTIAGO ARGUELLO, APPELLEE.

ARGUMENT FOR THE UNITED STATES.

SUPREME COURT OF UNITED STATES.

No. 190.—December Term, 1862.

THE UNITED STATES, APPELLANTS,

vs.

SANTIAGO ARGUELLO, APPELLEE.

ARGUMENT FOR THE UNITED STATES.

IN SUPREME COURT OF THE UNITED STATES.

No. 190.—DECEMBER TERM, 1862.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

THE UNITED STATES, appellants,
vs.
SANTIAGO ARGUELLO, appellee.

BRIEF FOR THE UNITED STATES.

STATEMENT OF THE CASE.

This is an appeal by the United States from a decree of the District court of the United States for the southern district of California, confirming to the appellee his claim to the mission of San Diego, and all its lands and appurtenances, with certain exceptions named in the grant.

The appellee claims title to them under a pretended grant, alleged to have been made to him by Pio Pico, governor of California, dated June 8, 1846. The grant is in these words, viz:

"Pio Pico, constitutional governor of the department of the Californias.

"GOVERNMENT OF THE DEPARTMENT OF THE CALIFORNIAS:

"Previously authorized by the most excellent departmental assembly to alienate the missions in order to pay their debts and avoid their total ruin, and knowing that Señor Don Santiago Arguello has rendered the government important services at all times, and has also given, and when asked for the preservation of the legitimate government, and the security of the department, without having received any indemnification; and whereas this señor has for his own personal benefit, and that of his numerous family, asked to purchase the mission of San Diego, with all its lands and tenements, paying fully and religiously the passive debts of the mission, which appear justified according to the report of the committee on missions; binding himself, besides, to contribute to the support of the priest located there, and of divine worship:

"Now, therefore, and considering all that is to be seen and considered, and using the faculties conferred on me, I have made real sale and perpetual alienation of it forever to Don Santiago Arguello, according to and in conformance with what has been agreed upon, with all the appurtenances found and known as belonging to it, consisting in rents, estates, real and

self-moving property. In testimony of which, and for its validity and better fulfilment, the following conditions are added:

"1st. He shall pay the creditors of the mission of San Diego the sums which may appear justly due them, he being authorized to enter into an agreement with them as to time and mode of settling them.

"2d. From now henceforth he shall bear, upon his own private account, the necessary expenses for the subsistence of the priest located there, and also for the preservation of divine worship.

"3d. No one shall be able to allege any enormous lesion by this sale; and the excess, whether great or small, is granted to the purchaser, for he takes it at the first value, which the said mission now possesses, and there is no one who will give more for it.

"4th. The church and its appurtenances, and the dwelling of the priest, are excepted from the foregoing sale.

"In consequence, I declare, by these presents, the aforesaid señor to be the legitimate owner of the said mission of San Diego, in the terms and under the conditions above expressed, by virtue of which he may take possession of it from this time, or whenever he may see fit.

"And as a proper testimony in all future time, I give this document as a formal writing, which will be acknowledged and respected by all civil and military authorities of the Mexican nation in this and other departments, and even by the general government of Mexico, properly authorized under my hand and that of my secretary of state, on this common paper, there being none stamped.

"In the city of Los Angeles, the eighth day of June, one thousand eight hundred and forty-six.

"(Signed,) PIO PICO.

"(Signed,) JOSÉ MATIAS MORENO, *Secretary ad interim.*"

No record evidence whatever, other than the grant itself, is offered in support of the claim. The only evidence of the *authenticity* of the grant is the testimony of Ignacio del Valle, as to the *genuineness of the handwriting* of Pio Pico and José Matias Moreno, his secretary.—(*Printed Record, p.* 3.)

Neither of these parties was called as a witness to show *when, where,* or *under what circumstances* the grant was *executed and delivered;* nor was *any legal ground laid* for dispensing with the *primary* and for substituting the *secondary* evidence of its authenticity.

Nor is there any evidence *of possession* by the claimant of the lands claimed at any time since the grant. On the contrary, the evidence offered by him is full and complete that he has never had possession of them or of any part of them since the date of the grant. Captain Halleck testifies that the mission buildings were occupied as a military post by the troops of the United States during the war with Mexico, and, to his knowledge, continued to be occupied as such till the year 1851.—(*Printed Record, p.* 7.) Thomas D. Johns testifies that from 1850 to October 18, 1854, (the date of his testimony,) they continued to be occupied by the United States as a military post.—(*Ib., p.* 6)

Against this occupation, it is true, the claimant *protested* from time to time, verbally and in writing, but *never made any attempt to occupy the residue of the lands not occupied for military purposes,* although, says his own witness, Captain Halleck, "I do not know of anything which prevented his possession of the part not so occupied."—(*Ib., p.* 8.)

There is some contradictory evidence in regard to the boundary of the mission lands, but all reference to it may be omitted, as it will not be necessary to consider it.

This is the whole case as made on the part of the claimant.

ARGUMENT FOR THE UNITED STATES.

This is the *first* of a *class* of cases known as the "Mission cases." There are individual differences in each case, but *they nearly all involve essentially the same principles*, and must be disposed of in the same way. Overlooking these minor differences, as a class, they present two leading inquiries:

1st. *Are these grants genuine?* were they or were they not *fabricated* after the conquest of California, and *antedated* to give them the semblance of genuineness?

2d. *But if genuine, are they valid?* Was there *any legal authority, general* or *special*, at the several dates at which they purport to have been made, by which the governor of California was authorized *to sell* these missions, at either *public* or *private sale?*

A negative answer to either of these *two* leading inquiries will dispose of this whole class of cases. "*Ex uno, disce omnes.*"

The objections to the confirmation of this particular claim are of two kinds; and relate, first, to matter of *form*, and second, to matter of *substance.*

1st. *Matter of form.* This grant, whether genuine or spurious, is not legally authenticated.

By an examination of the record it appears that the *only* evidence of the *authenticity* of the grant is the testimony of Ygnacio del Valle, as to the genuineness of the *handwriting* of Pio Pico, the governor, and of José Mathias Moreno, his secretary; that neither of these official witnesses, although well known to be living at the time, was called to prove *when, where*, or *under what circumstances* this grant was executed and delivered; and that no legal ground whatever was laid for dispensing with the *primary* and for substituting the *secondary* evidence of its authenticity.—(*See Printed Record, p.* 3.)

The claim, therefore, is not legally proved.—(22 *Howard U. S. R.*, 60–61; 23 *ib.*, 353.)

Besides, there is no evidence to show the performance of any of the conditions, which was held to be necessary in U. S. *v.* Bolton, 23 ib., 351, 353, a mission case.

In some of these cases this objection does not exist, but it is operative in this.

2d. *Matter of substance.* This grant, it may be fairly assumed, was made either by authority of the colonization law of 1824 and the regulations of 1828, or it was not.

If it was, then, according to their provisions and the repeated decisions of this court, the grant is either *spurious*, or, if genuine, it is *invalid.*

If it was not, then it was made without authority of law, either

general or special. This is the fatal dilemma in which this and all similar grants are placed.

I. If this grant was made under the provisions of the colonization law, it is either *spurious*, or, if *genuine*, it is *invalid*.

1. It is *spurious*, because, on the one hand, it *lacks* all the usual evidences of genuineness, and, on the other, *wears* all the common badges of fraud. 2. It is *invalid*, also, because it is made in disregard of, and in violation of, all the ordinary requirements of that law.

On this basis, this claim must be rejected, on a mere statement of the facts, without any argument or citation of authorities.

The record exhibits no petition, no map, no reference to the local authorities for information, no report, no concession, no approval by the departmental assembly, no registration, no archive evidence, or recognition of its existence in any shape or form; in short, it exhibits nothing but the *naked grant* itself—not even legally authenticated by formal proof—produced from the private possession of the grantee, accompanied by a *universal negative* of every requisite of the statute, and of every test of genuineness established by this court in such cases. Tried by the standard of the colonization law, this grant, therefore, is a *negative quantity*, and its legal value might very appropriately be represented by a *cipher*. Indeed, it is but fair to say that the grant does not, *in terms*, *profess* to be executed under the colonization law. It seems to be a *general compound* of many ingredients.

II. If this grant was *not* made under the *colonization law*, then it was made *without authority of law, either general or special.*

1. Because the colonization laws were the only laws of the Mexican congress providing for the disposal of the public lands of California, at the time of this grant, except those relating to the lands of the missions and towns. The governor had no power to *sell* the public lands.

This point was expressly decided at the last term of this court in the case of the United States *v.* Vallejo.—(1 *Black's U. S. R.*, 550–554.)

In that case the court says:

"The next is the grant founded on the *sale*, and which is the only one entitled to consideration.

"The main objection to this grant is *the want of power in the governor to make it;* and this raises the question whether or not the governor possessed *any* power to make grants of the public lands, independently of that conferred by the act of 1824 and the regulations of 1828."—(*Ib.*, *p* 550.)

"Now, the above [the colonization laws] are *the only laws* of the Mexican congress passed on the subject of *granting* the public lands, *with the exception of those relating to the missions and towns*, which have no bearing on the question. No others have been produced in the argument, nor have our researches found any, nor were any others discovered by the public agents which were authorized by this gov-

ernment to inquire particularly into the subject."—(*Ib.*, *p.* 552, and authorities cited.)

That case has been so recently decided as to preclude the necessity of any argument on that point.

2. This grant was made without authority of law, because it was not made, nor does it profess to be made, under any *general or special law of the Mexican congress* relating to the *sale* or other disposal of the *missions or their lands.*

The legislation of Mexico and California in regard to the secularization and sale of the missions in California is spread upon the record in the form of exhibits; but no law or order of the Mexican government can be found in these exhibits or elsewhere, authorizing the *sale* made in this case.—(*Printed Record, passim.*)

This proposition disposes of the *apparent exception* made by this court in the case above cited.

3. This grant was made without authority of law, because, as we have seen, the *governor had no power to sell* the public lands under the laws of Mexico, and because *the departmental assembly could not confer any such authority*, having itself no authority over the public lands but that conferred by the colonization laws. A department, or territory, in Mexico had no more authority to legislate in regard to the sale of the public lands of Mexico within its limits, than one of the Territories of the United States has, to legislate in regard to the sale of the public lands of the United States within its limits.

The provisions of the Mexican constitution of 1843 on this subject are very clear: "The powers of the departmental assemblies are," (among other things): "5th. To declare what may be proper (and *conformable to the laws)* respecting the acquisition, alienations, and exchanges *of the property that may belong to the community of the department. With regard to the alienation of lands, they shall observe the existing laws, and whatever is ordered by the laws of colonization.*"

"16th. (To) *advise* the governor in all matters where he shall *demand* it, and likewise in those where they *should* do it, *conformable to these bases and to the laws.*"—(*Printed Record, Exhibit No.* 42, *pp.* 103, 105, 106.)

Thus it appears that the legislative powers of a departmental assembly in regard to the lands within it, whether regarded as belonging to the *department* itself or to the *nation* at large, were limited to those arising under the colonization law, and that, consequently, it could confer no power of sale on the governor over the lands of the missions, or over the public lands generally.

If this conclusion be correct, then it follows that all the local legislation of the departmental assembly of California relating to *the sale* of the missions and the mission lands was *unconstitutional and void.*

That the departmental assembly had no power to decree the sale of the missions is confirmed by the action of the supreme government of Mexico as contained in the order addressed to the governor of California by Motesdeoca, the minister of industry and public instruction, dated Mexico, November 14, 1845.—(*Printed Record, p.* 55.)

But in order to understand it fully, it will be necessary to glance at

the antecedent action of the government of Mexico and of the departmental government of California in regard to the missions.

Without detailing the various steps taken by both for the secularization of the missions from 1833 to 1843, it is sufficient to state that, after various experiments on the subject, Governor Micheltorena, under the plenary powers with which he was invested by the supreme government, by his proclamation of March 29, 1843, *decreed the restoration of the missions to their previous condition.* After reciting, among other things, "that the *vast and immense landed property formerly belonging to the missions* had been scattered or partitioned out to individuals, which at the epoch it was done was caused by the exigencies of the country; that *the pious* and *charitable institutions of social order* for the conversion of the savages to Catholicism, and to agricultural and peaceful life, *are reduced* to the huertas (gardens) and enclosures of the churches and buildings; that most reverend ecclesiastics *have no support but charity*, and that *divine religion*, not prospering, barely sustains itself; that, as there is *no other method of reanimating the skeleton of a giant like the remains of the ancient missions without falling back upon experience, and fortifying it with the levers of civil and ecclesiastical power*," he says:

"Now, everything well considered and maturely reflected upon, I have determined to decree the following articles:

"No. 1. The government departmental decrees to be 'delivered up or restored' to the most reverend fathers (who shall name the ecclesiastics to be placed respectively in charge) *the missions of* San Diego, San Luis Rey, San Fernando, Santa Barbara, San Antonio, San José, San Juan Capistrano, San Gabriel, San Buenaventura, Santa Cruz, La Purissima, Santa Clara, *which shall continue for the future to be governed by the most reverend fathers* (they taking charge of the natives) *in the same manner as they were before.*

"No. 2. The government considers *what has been done to this date as irrevocable. The missions can reclaim none of the lands granted prior to this date.* And in reclaiming the *cattle*, *chattels*, and *instruments of agriculture* loaned by the reverend fathers, curates, or superintendents, they shall grant sufficient time and arrange with the debtors or holders amicably.

"No. 5. The departmental government, which glories in *religion*, as well as the whole of California, and in the same manner being interested, as well as all and every one of the inhabitants of both Californias, in the advancement of the holy Catholic faith, and in the prosperity of the country, '*dedicates itself*' (or places at the disposition of 'all its power') *in aid of the missions*, and, in quality of commanding the power of its arm, to protect and defend and sustain them; *and in the possession and preservation of all the lands they may hold this day* they shall be the same as the possessions and guarantees enjoyed by *private persons; binding itself to make no new grants without the information of the respective authorities of the most reverend ministers:* notorious non-occupation, non-cultivation, nor (or) necessity."—(*Printed Record, p.* 44–46.)

Doubts have been expressed by some as to the *extent* of this

restoration—whether it extended beyond *the improved property of the missions*, and included *the ungranted lands* formerly belonging to the missions, or not; but it seems to me *perfectly clear*, from the passages above cited, that the whole object and purpose of the proclamation was to place the missions *in statu quo, except as to the lands previously granted*, but with an express stipulation that *no further grants* of land connected with them should be made without consulting them, except in the cases of *notorious* non-occupation, non-cultivation, or necessity.

This view is fully sustained by the act of the departmental assembly of April 21, 1845. Section 2 provides "that the government, from the publication of the present decree, *will suspend*, until a convenient time, *the granting of the lands immediately contiguous to the missions, considering that some of them are indispensable, or reserved and appropriated* under the class of common lands.

"Section 3. Likewise, the government will suspend hereafter the giving to the civilized Indians any free letter, until some decisive measures may be taken, *upon the footing on which the missions must remain.*"—*(Printed Record, p. 47.)*

Omitting all notice of the act of August 24, 1844, authorizing the *sale, hypothecation*, or *renting* of the missions, as a means of raising *a war fund* for carrying on the war against the United States in 1844, under which nothing was done, as war did not then occur, we come next to the three acts of May 28, 1845, October 28, 1845, and March 30, 1846.—*(Printed Record, p. 48–53.)*

Each of these acts provides for *the sale* of several of the missions, upon certain terms and conditions which it is unnecessary here to enumerate. Under these circumstances, the order of November 14, 1845, before referred to, was issued, and is in these words, viz:

"MINISTRY OF INDUSTRY AND PUBLIC INSTRUCTION.

"MOST EXCELLENT SIR: His excellency the President has received information that the government of that department has ordered that *the property belonging to the missions thereof be put up for sale at public auction, which your excellency's predecessor (Micheltorena) had ordered to be restored* to the respective missionaries for the direction and administration of their temporalities; therefore he has deemed proper for me to say that the said government will please to report upon these particulars, *suspending immediately all proceedings respecting the alienation of the aforesaid property till the determination of the supreme government.*

"I have the honor to communicate it to your excellency for the purposes indicated, protesting to you my consideration and esteem.

"God and Liberty, Mexico, November 14, 1845.

"MONTESDEOCA.

"To his Excellency the GOVERNOR *of the Department of the Californias, Port of Monterey.*"

(Printed Record, p. 55.)

As the restoration decreed by Micheltorena included both real and personal, improved and unimproved, property, the prohibition against the sale of both was equally broad. No order suspending the operation of this prohibition to sell has been shown. If there ever was any, it ought to be shown by those who claim the benefit of it. By reference to the journal of the departmental assembly for 1846, it appears that either *this* order or one of similar import was *twice* communicated to that body: the first time during the session of April 15, 1846, and the second time during the session of May 13, 1846. The following entries appear in the journal of those dates, respectively:

"Likewise the following were reported: An official communication from the minister of relations, under date of November ultimo, directed to the departmental governor, in which, by a supreme order, he is required to report *what disposition he has made of the missions;* that it is ascertained that the property thereof, which had been delivered to the priests for the administration of the temporalities, had *been put up at public auction;* and *that meanwhile said report is being made all proceedings with respect to the alienation of the aforesaid property be suspended.* This communication being directed to the governor of the department, it was resolved by the body *that it be returned to him* for the manifestation of his opinion, after which the subject might be taken up for consideration."—(*See Journal for* 1846, printed as an appendix to the appellant's brief in the case of the United States *vs.* J. R. Bolton, *p.* 230.)

"*Session of the* 13*th day of May*, 1846.

"The proceedings of day before yesterday being approved, a communication from the superior government was reported, in which is inserted a supreme order directed to it, requiring a *report* of the condition of the missions, *suspending, meanwhile, whatever may have been determined in regard to them.*

"The object of the said communication from the governor is to consult what should be done, since it appears to him that what, up to the present time, has been provided, is the most suitable for preventing the total and irreparable ruin of the said establishments; *notwithstanding, the body would determine.* Referred to the committee on missions."—(*Ib.*, *p.* 236–237.)

The second communication of the order to the assembly was most probably made by the governor, in connexion with his opinion thereon, in reply to its requests therefor, made April 15, 1846.

By a further examination of the journal of the assembly, from that date to its close, July 24, 1846, it appears that *no report was ever made to the assembly on the subject*, and that, consequently, the grant in this case, as well as all others made by the governor subsequent to April 15, 1846, was made in direct violation of the "supreme order" "from the superior government," which prohibited the sale of the missions, and *without* the sanction of the departmental assembly.

As matter of special aggravation in this case, it also appears, by the same journal—

1st. That the *claimant, Santiago Arguello*, was a member of the departmental assembly for the year 1846, and that he presented his credentials and took his seat in that body on the 2d day of March, 1846, and was then appointed a member of the *committee on public lands*. See session of that date.—(*Ib.*, *p.* 221, 222.)

2d. That during the session of March 4, 1846, a "petition was presented from sundry individuals praying the grant of the mission of San Gabriel for the establishment of a town, ('poblacion,') and that this petition was referred to the *committee on missions, to which Señor Arguello was added*" as a member.—(*See Journal, &c., ib., p.* 233.)

3d. That at the session of March 23, 1846, the *project* of the act of March 30, 1846, was submitted to the departmental assembly, and by it was referred to the *committee on missions;* that at the session of March 30, 1846, "*Señor Arguello,*" "the president of the committee," "protested that *that he could not support the bill, because it did not coincide with his views of the subject;*" but that nevertheless the bill passed "without discussion," that is, *unanimously.*—(*See Journal, &c., ib., p.* 227, 228. *Printed Record, p.* 59.)

4th. That, as we have already seen, the "supreme order" "from the supreme government" prohibiting the sale of the missions was, on the 13th of May, 1846, referred to the committee on missions, of which the claimant, Santiago Arguello, was a member.—(*See Journal, &c., ib., p.* 236–237.)

5th. That, although this grant was dated *June* 8, 1846, it was not submitted to the departmental assembly for its approval at the session of *June* 10, 1846, when a number of grants were approved; *nor was it submitted for that purpose at any subsequent date*, as an examination of the journal will show.—(*See Journal, &c., ib.*, 245, *et seq.*)

These facts so fully affect the claimant with *notice* of the *illegality of the grant* in his case, as irresistibly to beget the suspicion of *fraud*, if they do not absolutely show that the grant was itself an *after-thought, fabricated after* the conquest of California, but *antedated* to give it the semblance of genuineness; because it is contrary to the ordinary course of human conduct to suppose that a man thus affected with notice of the illegality of the transaction would buy one of the missions, and, as a consideration therefor, undertake to pay its debts, which are represented as having been large. But upon the theory of fraud already suggested, the very *inconsistency* of these facts is *consistent* with the theory, and becomes evidence of its truth. The subsequent fabrication of the grant could not "trammel up the consequences" of these antecedent facts thus recorded, nor, I may add, can it now "*jump* the *judgment yet to come.*"

The conclusions, therefore, upon this point are, in short, that the governor of California had no power, general or special, to make these mission grants, and that, in this particular case, the grantee and claimant well knew the fact.

III. But conceding, for the sake of the argument, that the legislation of the departmental assembly authorizing the sale of the missions *was constitutional and valid*, and that the governor was *not prohibited* by the order of November 14, 1845, from proceeding to make

grants under the several acts of assembly, still there are other grounds of objection to this and all similar grants, viz:

1. That the authority conferred was *special*, and must be *strictly followed*, and be exercised in the mode or manner specially pointed out, in order to validate acts done under it.

2. The acts of the departmental assembly providing for the sale of the missions, *without a single exception*, require them to be sold at *public auction* after the usual *public notice* previously given.

The act of May 28, 1845, provides as follows, viz:

"ARTICLE 2. The Carmelo, San Juan Bautista, San Juan Capistrano, and San Francisco Solano, shall be considered as *pueblos*, which is the character which they have at present; and the government, after separating a sufficient locality for the curate's house, for churches, and appurtenances, and court-house, *will proceed to sell the remaining premises at public auction*, in order to pay their respective debts, and the overplus, should there be any, shall remain for the benefit and preservation of divine worship.

"ARTICLE 3. The remainder of the missions, as far as San Diego, inclusive, may *be rented out at the option* of the government, which will establish the manner and form of carrying this into execution, *taking care, in so doing, that the establishments move prosperously forward.*"—*(Printed Record, p. 48.)*

The act of October 28, 1845, also provides as follows, viz:

"ARTICLE 1. There will be sold in this capital, *to the highest bidder*, the missions of San Rafael, Dolores, Solidad, San Miguel, and La Purissima, which are abandoned by their neophytes.

"ARTICLE 2. Of the existing premises of the pueblos of San Luis Obispo, Carmelo, San Juan Bautista, and San Juan Capistrano, and which formerly belonged to the missions, there shall be separated the churches and appurtenances; one part for the curate's house, another for a court-house, and a place for a school, *and the remainder of said edifice shall be sold at public auction, when an account of them will be given.*

"ARTICLE 3. *In the same manner will be sold the property on hand belonging to the missions, such as grain, produce, or mercantile goods, &c.*

"ARTICLE 4. The *public sale* of the missions of San Luis Obispo, Purissima, and San Juan Capistrano, *shall take place on the first four days of the month of December next*, notice being previously posted up in the towns of the department inviting bidders, and three publications being made in the capital at intervals of eight days one from the other before the sale. *In the same manner will be sold* what belongs to San Rafael, Dolores, San Juan Bautista, Carmelo, and San Miguel, *on the 23d and 24th of January, next year.*

"ARTICLE 5. From the date of the publication of these regulations proposals will be admitted in this capital, to be made to the government, which will take them into consideration.

"ARTICLE 6. The total proceeds of these sales shall be paid *into the departmental treasury, to pay therewith the debts of said missions;* and should anything remain, it will be placed at the disposal of the

respective prelates for the maintenance of religious worship, agreeably to article 2 of the decree of the departmental assembly."

Like provisions are made for *renting* specified missions to the highest bidder, appointing a particular day for that purpose, and for giving *public notice* of the *time* and *place* of the renting.—(*See Articles* 7 to 13.)

"ARTICLE 14. The *renting* of the missions of *San Diego*, San Luis Rey, San Gabriel, San Antonio, Santa Clara, and San José, shall take place when the difficulties shall be got over, which at present exist with respect to the debts of those establishments, *and then the government will inform the public*, and *all shall be done agreeably to these regulations.*"—(*Printed Record, p.* 49–51.)

The act of March 30, 1846, the last act on the subject, further provides as follows, viz :

"ARTICLE 1. The government is authorized to carry into effect the object of the decree of the 28th of May last, published by this honorable assembly, respecting missions; to which end, seeing the *impracticability* of renting, mentioned in article 3 of said decree, the *departmental government will act in the manner most conducive to obviate the total ruin of the missions* of San Gabriel, San Luis Rey, *San Diego*, and the remainder which are in similar circumstances.

"ARTICLE 2. As most of these establishments are *owing large amounts*, if the property on hand should not be sufficient to satisfy their acknowledged debts, *attention shall be had to what the laws determine respecting bankruptcies*, and *steps shall be taken accordingly.*

"ARTICLE 3. Should government, by virtue of this authority, find that in order to prevent the total ruin which threatens *said missions*, it will be necessary to *sell* them to private persons, *this shall be done at public auction, the customary notice being previously given.* * * *

"ARTICLE 8. The government will remove any obstacles not foreseen in this decree, and in *six months at furthest* will *notify this honorable assembly of its fulfilment.*"—(*Printed Record, p.* 52–53.)

This summary of the legislation of the departmental assembly, so far as relates to the *sale* of the missions, very clearly establishes these facts:

1st. That *no private sale* of any of the missions by either of these acts was authorized in any event.

2d. That, on the contrary, the sales authorized to be made were to be *public sales, at public auction, after public notice* of the times and places of sale.

3d. That neither of these acts authorized the sale of the missions to raise a fund for prosecuting the war with the United States, and for the *obvious* reason that, *at the dates of their respective passage, no war existed or was apprehended by the local government.*

4th. That by neither of these acts, when sales of the missions were to be made for the payment of their debts, was the payment of them to be left to the discretionary action of the purchaser, but that, on the contrary, by the act of October 28, 1845, *the proceeds of the sales were to be paid into the departmental treasury*, (Art. 6;) and by the act of March 30, 1846, when the missions were hopelessly in debt, *pro-*

ceedings in bankruptcy were to be instituted against them for the payment of their debts.

5. That in every case *notice to the public* was to be given of *what was intended to be done* on the one hand, and *notice to the departmental assembly* of *what had been done* was required to be given on the other.

Now, let us examine this grant, and see how far it was made in pursuance of, and in conformity to, the special authority conferred on the governor by the departmental assembly, admitting, for the sake of argument, that it *could* confer upon him such power.

We have no evidence of the sale, of *how*, *when*, or *where*, or for what *considerations* it was made, or of the *performance of its conditions*, other than we find expressed in the grant itself. In this case, therefore, we cannot be compelled to look beyond it.

By an examination of the grant, we find that it professes to be made by virtue of *special authority previously* conferred on the governor by the *departmental assembly*, to alienate the missions for two distinct purposes:

1st. "In order to pay their debts;" and

2d. In order "to avoid their total ruin."

Such being the *special objects* of the authority conferred, the grant proceeds to recite the obligations of the government to the grantee for "important services at all times," and for *advances* on the credit of the government, "without indemnification," in other words, *debts due;* and then, in consideration of the premises, and of the further agreement of the grantee to pay the debts of the mission, and to contribute to the support of the priest located there, and to the support of divine worship, it grants to him the mission of San Diego, with all its lands and tenements, excepting from the sale only the church and its appurtenances and the dwelling of the priest.—(*Printed Record, p.* 8–9.)

Here, then, we have a sale, *professedly* made June 8, 1846, in pursuance of authority *previously* given by the *departmental assembly*.

We have a *private sale*, made in pursuance of authority *authorizing only a public sale, at public auction*, in pursuance of *public notice* of the *time* and *place of sale*.

We have a sale, *authorized solely* for the purpose of paying the debts of the missions and in order to prevent their total ruin, made also "*in reward for important public services*" and "*in payment of public debts*," the latter, of course, *reducing the amount of the consideration*. The "*surplus*" beyond the debts of the mission is thus *absorbed by paying the public debts*, not without any authority given for that purpose, but directly contrary to law.

We have a sale, *authorized* to be made *for money, to be placed in the departmental treasury* or in *the hands of the officers of justice*, for the payment of the debts of the missions, *made upon credit*, authorizing the grantee to pay the debts of the mission *at his own pleasure*, and "to enter into an agreement with them as to the time and mode of payment."

We have a sale, *authorized*, not only for paying the debts of the missions, but to raise a fund for the *permanent support of the officers and*

institutions of religion, and to be administered by themselves, so far as this object is concerned, satisfied by the personal obligation of the grantee to support a *particular* priest at a *particular* place *for life*, at most, or as long as he should choose to stay there.

We have, also, a sale, of which, *when made*, the *governor was required to give notice to the departmental assembly*, made June 8, 1846, and no notice given of it by him, although the governor, as we know from other sources, did not leave Los Angeles until June 17, 1846, and the departmental assembly had an intermediate session on the 10th of June.—(*See Halleck's Report, appendix to appellant's brief in United States* vs. *Bolton, p.* 24; *Journal of Departmental Assembly; Brief, same case, p.* 245.)

In short, we have a sale made in total disregard of the authority under which it professes to be made—a disregard so gross and strongly marked as to be *itself*, under all the circumstances, convincing evidence of fraud, as it admits of no other rational explanation.

IV. There is but one other pretence which need be noticed. It may be argued that the governor of California was invested with *extraordinary powers* by the supreme government, as shown, 1st, by the proclamation of Paredes, *dated March* 13, 1846, and, 2d, by the order of Tornel, minister of war, to the general commander of California, dated *March* 10, 1846, and severally communicated to the governor of California "for his information" and "cognizance."—(*Printed Record, p.* 57, 103.)

Without entering into any minute examination of *the vague* and *general terms* of these orders, to show that they conferred no authority to sell the missions, as an independent source of power, it is sufficient for the purposes of this and similar cases to say: 1st. That the grant itself professes to be made by authority conferred *previously to its date—June* 8, 1846—by *the departmental assembly*, and *not* by authority from the national government of Mexico. 2d. These governmental acts, being issued within a few days of each other in Mexico, by different branches of the government, for the same general object, they must have reached the governor of California about the same time. There is no evidence *when* the order of the minister of war reached him, but the proclamation of Pio Pico publishing that of Paredes, president *ad interim*, is dated *July* 4, 1846.—(*Printed Record, p.* 57–58.) It is therefore *impossible*, even if the grant was *silent* on the subject, that it could have been made *in pursuance of a power not known to exist at the time.*

V. There is also another ground on which this case, and the class of cases to which it belongs, must be rejected, viz: That *the grant was made after May* 13, 1846—the date fixed by the original draft of the treaty of Guadelupe Hidalgo, and by the protocol signed before the exchange of its ratifications, as *the boundary*, in *point of time*, between *valid* and *invalid grants.* But this point, although presented and relied upon in this case, will be reserved as a *special ground* of argument in some other case of this class.

Thus it has been shown, I trust, that this claim must be rejected on these several separate and independent grounds, viz:

1st. Because the grant, whether genuine or spurious, has not been legally authenticated.

2d. Because the grant was made without any authority from the national government, general or special, it being authorized neither by the colonization law nor by any other general or special authority of that government.

3d. Because the departmental assembly could not confer authority upon the governor to sell the missions, its own power, as well as his, arising under and being limited and restricted by the colonization law.

4th. Because, even admitting the power of the departmental assembly to invest the governor with authority to sell the missions, and consequently the validity of its attempted legislation on the subject, still the power thus conferred would be special, and must be strictly pursued in order to validate acts done under it; and because an examination of the grant itself, in the light of surrounding facts, shows that, so far from having been made in strict pursuance of this special authority, it was made in total disregard of it.

5th. Because the grant was made after May 13, 1846.

Thus, at this distance of time, is vindicated the *original* opinion of one *of the counsel of the claimant* before the board of land commissioners (Captain, now General, Halleck) as to the legal *invalidity* of *this class of grants*, in his report to the American military governor of California after the conquest, and also the correctness of the popular judgment of that day, as reported by him, that the mission grants were *antedated, fraudulent, and void.*—(*See Halleck's Report, p.* 17, 20, 21–22; *Printed Record, p.* 2.)

JOHN A. WILLS.
EDWARD BATES,
Attorney General.